

ACTS
of the
LEGISLATURE
of
WEST VIRGINIA

REGULAR AND FIRST EXTRAORDINARY
SESSIONS

1925



ERRATA

- Page 2, section 1, line 1, after "of" insert "the acts of the legislature of".
- Page 93, section 2, line 11, "follow" should read "following".
- Page 125, section 78-a (6), line 82, "connected" should read, "mentioned".
- Page 151, section 6, line 2, "these" should read, "the".
- Page 182, section 51, line 57, "each" should read "such".
- Page 197, section 4, line 159-d, "or" should read "of".
- Page 201, section 6, line 3, strike out the comma after "kept".
- Page 253, section 24, line 5, "chapter fifty-five-d" should read, "chapter fifty-five-b".
- Page 334, section 21, line 6, "material" should read, "maternal".
- Page 366, section 102, line 36, "or" should read, "on".
- Page 426, section 8, line 3, "elected" should read "electing".
- Page 450, section 13, line 4, "employers" should read, "employees".
- Page 456, section 16, line 3, "without" should read "with".

NOTE BY CLERK OF THE HOUSE OF DELEGATES.

The acts of the first extraordinary session follow immediately after the acts of the regular session and are separated therefrom by a colored insert.

Municipal charters are published in a separate volume.

List of Members and Officers of the Legislature of West Virginia

1925

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 Chief Assistant—HOMER GRAY, Wheeling.
 Sergeant-at-Arms—JOHN HALLAMAN, Huntington.
 Door-Keeper—W. R. MESERVIE, Cairo.

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Third.....	-Harvey Marsh, (R)..... James M. Devore, (R).....	Parkersburg Creston
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Sixth.....	-M. Z. White, (R)..... L. E. Woods, (R).....	Williamson Welch
Seventh.....	-John Kee, (D)..... Ben H. Ashworth, (D).....	Bluefield Beckley
Eighth.....	-Clyde B. Johnson, (D)..... Naaman Jackson, (R).....	Charleston Logan
Ninth.....	-H. O. Boley, (D)..... E. P. Alderson, (D).....	Lookout Clay
Tenth.....	-A. C. Herold, (D)..... R. F. Kidd, (D).....	Sutton Glenville
Eleventh.....	-F. S. Suddarth, (D)..... Dennis M. Willis, (R).....	Grafton Morgantown
Twelfth.....	-Charles G. Coffman, (R)..... Ira E. Smith, (R).....	Clarksburg West Union
Thirteenth.....	-Hugh S. Byrer, (D)..... Troy E. Hardman, (R).....	Phillippi Elkins
Fourteenth.....	-E. Bunker Reynolds, (R)..... A. L. Helmick, (R).....	Keyser Thomas
Fifteenth.....	-P. E. Nixon, (D)..... H. P. Henshaw, (D).....	Paw Paw Bunker Hill

(R)..... Republican.
 (D)..... Democrat.
 (-)..... Holdover Senators.

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Chief Assistant—V. F. FRIEZZELL

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†Sergeant-at-Arms—J. J. JOHNSON

Door Keeper—W. H. HUTCHINSON

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	G. L. Armstrong, (D).....	Huntington
	Abe Davis, (D).....	Huntington
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Clay.....	R. R. Lockhart, (D).....	Clay
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Hardy.....	P. D. Delawder, (D).....	Lost River
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	J. D. Furbee, (D).....	Glover's Gap

*Died May 26, 1925

†Qualified May 27, 1925

‡Died Feb. 9, 1925

*Resigned June 6, 1925

**Qualified June 6, 1925

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ON ENROLLED BILLS

Messrs. Dorsey (*Chairman*), Mathews, Morgan, Morris and Pence.



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LEGISLATURE OF WEST VIRGINIA

ACTS OF 1925

REGULAR SESSION

CHAPTER 1

(Senate Bill No. 2—By Mr. Kidd)

AN ACT to authorize and empower the state board of control to acquire property by condemnation and by and with the consent of the governor to sell or exchange any property held by or for such institutions.

[Passed April 20, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. State board of control empowered to condemn property.

Sec.

2. Condemnation proceedings.

Be it enacted by the Legislature of West Virginia:

That the state board of control be empowered to condemn land or buildings for use and benefit of state institutions, and by and with the consent of the governor to sell or exchange any property held by or for such institutions.

Section 1. The state board of control shall have power to 2 acquire by condemnation land or buildings for the use and 3 benefit of any of the state institutions subject to its control and 4 management, and by and with the consent of the governor to 5 sell or exchange any property held by or for such institutions.

Sec. 2. All condemnation proceedings had hereunder shall 2 be governed by chapter forty-two of the code of West Virginia.

CHAPTER 2

(House Bill No. 33—By Mr. Bayer)

AN ACT to repeal chapter one hundred and twenty-eight of the acts of the Legislature of one thousand nine hundred and one and acts amendatory thereto and to provide for the control, extension and improvement of the public property known as Berkeley Springs.

[Passed April 16, 1925. In effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 1. Repealing chapter one hundred and twenty-eight of acts of one thousand nine hundred and one.</p> <p>2. Sanitarium established; under control board of control.</p>	<p>Sec. 3. Administration.</p> <p>4. Patients admitted. how; fees.</p> <p>5. May receive gifts or appropriations, management.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That chapter one hundred and twenty-eight of one thousand nine hundred and one and all acts amendatory thereto, be and the same are hereby repealed.

Sec. 2. There is hereby established a sanitarium for the treatment of persons afflicted with rheumatism, diabetes melitus and other diseases for which the waters hereinafter named are remedial, to be located on the state property known as Bath Square or Berkeley Springs property, in Morgan county and such other lands adjoining or near thereto as may hereafter be acquired. It shall belong to that class of institutions mentioned in section three of chapter fifty-eight of the acts of one thousand nine hundred and nine, and shall be managed and controlled as provided in said act, all the provisions whereof shall be applicable to said sanitarium as if the same were named in said section three of said act.

Sec. 3. The state board of control shall provide plans necessary for the alteration of present buildings on said grounds and such new buildings as it may be necessary to provide. The board of control may purchase such additional grounds adjoining or near to the said Bath Square on behalf of this state, as in its judgment may be necessary, for the purposes of this act. It may make such disposition of the surplus water from said springs not needed for public use as it may deem most advantageous to the interests of the state.

Sec. 4. Patients shall be admitted to such institution for treatment upon payment of such fees as may be established by the board of control, which fees shall be reasonable, but patients

4 from this state shall be allowed free treatment if not pecuniarily
5 able to pay for same, under such reasonable regulations as the
6 state board of control may prescribe.

Sec. 5. The state is hereby authorized to receive gifts or
2 appropriations from the government of the United States, or
3 from any source, for the purposes set forth in this act, and the
4 state board of control is authorized to enter into any reasonable
5 agreements respecting the expenditures of same and the manage-
6 ment of such institution.

CHAPTER 3

(Senate Bill No. 65—By Mr. Highland)

AN ACT to amend and re-enact section two-c, chapter fifteen-a of
Barnes' code of one thousand nine hundred and twenty-three
relating to the state library, by making provision for the dis-
tribution of opinions of the supreme court of West Virginia.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the
approval of the Governor.]

Sec. 2-c. Reports of the supreme court of appeals; copyright; distribution;		advance sheets; distribution; proof reading.
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Be it enacted by the Legislature of West Virginia:

That section two-c of chapter fifteen-a, Barnes' code of West
Virginia, edition of one thousand nine hundred and twenty-three,
relating to the distribution of the opinions of the supreme court
be and the same is hereby amended and re-enacted so as to read as
follows:

Section 2-c. The librarian shall have charge of the reports
2 of the supreme court of appeals after the same are printed
3 and bound and approved by the reporter, and he shall secure
4 the copyright of the same in the name of and for the benefit of
5 the state. As soon as practicable after any new volume of such
6 reports has been delivered to him, not including reprints of
7 former volumes, he shall dispose of the same as follows: ten
8 copies to the college of law of West Virginia University, one
9 copy to the governor, two copies to the attorney general, one
10 copy to the judge of every court of this state and one copy to
11 the head of each of the subordinate executive departments at
12 the state capital, one copy to the public service commission,
13 one copy to the state board of control, one copy to the adjutant

14 general, two copies to the department of archives and history,
14-a and one copy to each of any other administrative boards or
14-b commissions at the state capital. The librarian shall place
14-c five copies in the state law library at Charleston, and send five
15 copies to the Congressional law library at Washington, District
16 of Columbia. He shall also arrange as far as possible to
17 exchange four copies of each volume of said report for a like
18 number of copies of the current volumes of the report of the
19 court of appeals of each of the states, which said last reports
20 he shall send one each to the state law library at Charleston,
21 to the college of law of West Virginia university, to the asso-
22 ciation at Charles Town, and to the Ohio county library at
23 Wheeling. The remaining copies of said reports of the supreme
24 court of appeals the librarian shall deliver to the secretary of
25 state, to be disposed of by said secretary as provided by law ;
26 *provided*, that the governor may, in writing, cause additional
27 copies of said reports to be furnished to any officer, court,
28 institution or board now entitled to one or more copies ; and
29 he may also cause one or more copies of said reports to be
30 furnished to any officer, board, commission, institution or
31 tribunal not named herein. The copies of said reports fur-
32 nished to any officer or judge, or library, or board shall remain
33 the property of the state of West Virginia, and as to any such
34 judge or officer the copy received by him shall be turned over
35 to his successor in office. The copies furnished to any library,
36 board or commission shall be safely kept therein.

37 It shall be the duty of the reporter of the supreme court of
38 appeals, in letting the contract for publishing the reports of
39 said court, to specify and contract for the printing of an ample
40 number of advance sheets of the written opinions of said court,
41 to be printed and delivered as soon as practicable after such
42 opinions are filed, and to furnish a sufficient number to said
43 librarian whose duty it shall be to mail without delay, free of
44 charge, a copy of such advance sheets to each judge of every
45 court of record in this state and to the prosecuting attorney of
46 each county therein ; and the reporter shall deliver the remain-
47 der of the copies of such advance sheets to the secretary of
48 state whose duty it shall be to furnish copies thereof to mem-
49 bers of the bar of this state or others at their request, upon
50 payment therefore of the cost of printing and mailing same.
51 The proof of these advance sheets shall be read by the printer
52 but such advance sheets shall be issued before said opinions

53 are edited and proof-read for the official reports by said
54 reporter and by the respective judges of the supreme court of
55 appeals by whom said opinions were written.

CHAPTER 4

(Senate Bill No. 194—By Mr. Hardman)

AN ACT to provide for the payment of benefits on account of death or disability of a member of the department of public safety.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

<p>Sec. 1. Death or disability fund created. 2. Source of death or disability fund. 3. Death or disability fund to be paid into the state treasury; fund to</p>	<p>Sec. 4. Death or disability commission; be invested. composed of: powers and duties.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a death or disability fund for the benefit of members of the department of public safety, or any dependent of a member or former member thereof.

Sec. 2. Into such fund shall be paid such amounts as have been heretofore collected by the superintendent of the department of public safety on account of fees for arrests, rewards, or from any other source permitted by law. There shall be paid into such fund any such amounts arising in the future from the above named or any other sources permitted by law, designated by the superintendent of the department of public safety, except no part of any fine shall be paid therein.

Sec. 3. Any money so collected by the superintendent of the department of public safety, shall be turned over to the state treasury, and the treasurer and auditor shall keep a separate account on their books. Such amount shall be invested by the state board of control in bonds of the government of the United States, the state of West Virginia, or any political subdivision thereof.

Sec. 4. There is hereby created a death or disability commission, which shall be composed of the members of the state board of control, and the superintendent of the department of public safety. Said commission shall have the power to make such awards for such times and under such terms and condi-

6 tions as it shall elect, but in no event shall the amount awarded
7 exceed the income arising from the interest on said death or
8 disability fund.

CHAPTER 5

(Senate Bill No. 195—By Mr. Hardman)

AN ACT to amend and re-enact sections one and three of an act of the legislature of West Virginia, extraordinary session of one thousand nine hundred and nineteen, as amended at the extraordinary session of one thousand nine hundred and twenty-one, and to repeal section ten, being an act creating a department of public safety, to provide protection for the lives and the property of the inhabitants of the state of West Virginia, providing for the appointment of a superintendent, officers and members thereof, defining their powers and duties and fixing their compensation, and creating a board of commissioners to hear and determine charges to be filed against any member of the department of public safety for misconduct in office.

[Passed April 21, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Department of public safety created; executive head; appointed by the Governor, with the advice and consent of the senate; qual-

ification; salary.

Sec.

3. Superintendent to appoint office force; salary of office help fixed by board of public works.

Be it enacted by the Legislature of West Virginia:

That sections one and three as amended by the legislature of one thousand nine hundred and twenty-one, extraordinary session, be and the same are hereby amended, and that section ten be and the same is hereby repealed.

Section 1. A department of public safety is hereby created
2 the executive and administrative head of which shall be a
3 superintendent, who shall be appointed by the governor by
4 and with the advice and consent of the senate, for a term of
5 four years. The superintendent shall be on the date of his
6 appointment at least thirty years of age and shall not be more
7 than fifty-five years of age. He shall receive an annual salary
8 of five thousand dollars to be paid as provided by law.

Sec. 3. The superintendent shall appoint a supply sergeant
2 and headquarters sergeant at an annual salary of fifteen hun-

3 dred dollars each; also a chief clerk who shall be a competent
4 bookkeeper and who shall receive an annual salary of twenty-
5 four hundred dollars; and also one clerk, a competent steno-
6 grapher, whose salary shall be fixed by the board of public
7 works. The supply sergeant and headquarters sergeant shall
8 be enrolled and enlisted as members of the department of public
9 safety.

CHAPTER 6

(House Bill No. 259—By Mr. Smith, of Berkeley)

AN ACT creating a state forest, parks and conservation commis-
sion.

[Passed April 17, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.		Sec.
1.	Forest, parks and conservation commission created; membership.	3. Duties, further; clerical assistance.
2.	Duties of commission.	4. Commission, powers.

Be it enacted by the Legislature of West Virginia:

That a state forest and conservation commission be created, the members and duties of which are as follows:

Section 1. There is hereby created a state forest, parks and
2 conservation commission to be composed of the governor of the
3 state, the commissioner of agriculture, the director of agricul-
4 tural extension, the state geologist, the chairman of the fish
5 and game commission, *ex-officio*.

Sec. 2. It shall be the duty of the commission hereby created
2 to study and investigate the needs and opportunities for for-
3 ests, parks, game reserves, and other conservation measures.

Sec. 3. The commission shall make a comprehensive report
2 of the results of its investigations, together with its recom-
3 mendations, to the next session of the legislature, and shall
4 prepare such bills as may be necessary to carry out its recom-
5 mendations and submit them with its report. The commission
6 is authorized to secure from any of the departments of the
7 state government such clerical assistance as may be available
8 and found necessary by the commission.

Sec. 4. In the conduct of its investigation the commission
2 shall have power to summon any state official or other person
3 in a position to give authoritative or valuable information and
4 to compel by subpoena the production of any books, papers
5 and documents it may deem necessary at any designated place

6 of hearing, and for this purpose may invoke the aid of any
7 circuit court in requiring the evidence and testimony of wit-
8 nesses, and the production of papers, books and documents.

CHAPTER 7

(Senate Bill No. 262—By Mr. Hogg)

AN ACT to amend and re-enact section two, of chapter sixty-four, of the acts of one thousand nine hundred and five, as amended and re-enacted by chapter eighty-eight of the acts of the legislature of one thousand nine hundred and nineteen, and to amend and re-enact section three of chapter sixty-four of the acts of one thousand nine hundred and five (being serial sections three hundred and ninety-five and three hundred and ninety-six of Hogg's code of West Virginia, edition of one thousand nine hundred and thirteen), relating to the state department of archives and history.

[Passed April 24, 1925; in effect from passage. Approved by the Governor.]

Sec.

2. Located in State Capitol; management of; authority to adopt and establish by-laws and regulations, to be approved by the Governor; powers and duties; custodian of flags and other property, books,

papers, documents, etc.

Sec.

3. Appointment of state historian and archivist; general power and duties; bureau to be kept open; make report annually.

Be it enacted by the Legislature of West Virginia:

That section two of chapter sixty-four of the acts of one thousand nine hundred and five as amended by chapter eighty-eight of the acts of one thousand nine hundred and nineteen and section three of chapter sixty-four of the acts of one thousand nine hundred and five, being serial sections three hundred and ninety-five and three hundred and ninety-six of Hogg's code of West Virginia, edition of one thousand nine hundred and thirteen, relating to the state department of archives and history, be amended and re-enacted so as to read as follows:

Section 2. The said bureau shall be a department of the
2 state government and shall occupy rooms in the state capitol
3 or in the annex thereto or in such building as may be provided
4 by the state. It shall be under the management of the state
5 historian and archivist, subject to the approval of the governor,
6 who shall have power and authority to adopt and establish

7 such by-laws and regulations for its government as may seem
8 necessary and proper to effect the objects of the bureau, sub-
9 ject in all matters, however, to the approval of the governor;
10 and it shall cause to be enforced such library rules and regu-
11 lations as will aid students, readers, investigators and research
12 workers in the use of the material of the bureau and in the
13 proper protection thereof. It shall carefully keep and pre-
14 serve the battle flags and regimental flags borne by West
15 Virginia organizations in war, together with all other property
16 of whatsoever character, which has been purchased by the
17 state's money and held in trust for the state by the West Vir-
18 ginia historical and antiquarian society, together with all
19 property loaned to the state by individuals for exhibition
20 purposes.

21 An official of the state or of any county, or any other official
22 may turn over to the state historian and archivist, with his
23 consent, for permanent preservation and record in the state
24 department of archives and history any official books, records,
25 documents, original papers, or files, not in current use in his
26 office, taking a receipt therefor; *provided*, said official shall
27 first make and keep on record in his official files, a certified
28 copy of such book, record, document, original paper on file,
29 and said official may in like manner turn over to the state
30 historian and archivist, with his consent, for use of the state,
31 any printed books, records, documents or reports not in cur-
32 rent use in his office. Nothing herein, however, shall be con-
33 strued to allow the removal of any books or records affecting
34 the title to any estate, within the jurisdiction of the official
35 having custody of such records. The state historian and
36 archivist shall embody in his report to the governor a general
37 list of all such books, records, documents or papers so received;
38 and upon the request of any person entitled thereto, shall
39 furnish a certified copy of any such record, document, paper,
40 or extract therefrom, and said certified copy shall be entitled
41 to the same weight as evidence as though certified by the
42 authority by whom said record, document, or paper was de-
43 posited with said state historian and archivist.

Sec. 3. The bureau shall be in charge of a person who shall
2 be appointed by the governor for the term of four years, and
3 who shall be known as the state historian and archivist. He
4 shall be the custodian of the collections of this bureau and

5 it shall be his duty to carry into operation and full effect
6 the provisions of section one of this act. He shall employ
7 the necessary clerical assistants and make rules and regula-
8 tions for their government; he shall arrange for the publica-
9 tion of such matter as the legislature may from time to time
10 provide for printing, including the editing and publishing
11 of a quarterly historical magazine devoted to the history,
12 biography, bibliography and genealogy of West Virginia; and
13 he shall enforce all rules and regulations with the approval
14 of the governor, pertaining to the bureau which may be pre-
15 scribed under the provisions of this act. He shall cause
16 the rooms of the bureau to be kept open to the public daily,
17 except Sunday, from nine o'clock in the morning until five
18 o'clock in the afternoon, throughout the year; and from seven
19 o'clock until nine o'clock in the evening during the sessions
20 of the legislature. He shall make annually a report to the
21 governor to be transmitted by him to the legislature, which
22 report shall contain an exhibit of all the state's papers, public
23 documents, books, pamphlets and other property belonging to
24 the bureau not theretofore published, also a statement of its
25 annual accumulations, and a statement of the receipts and
26 expenditures accompanied by such recommendations as he
27 deems best for the state's interests in the said bureau.

CHAPTER 8

(House Bill No. 275—By Mr. Tutwiler)

AN ACT amending and re-enacting sections one, two and three of chapter seventeen of Barnes' code of one thousand nine hundred and eighteen, and adding sections one-*a*, one-*b*, one-*c*, two-*a*, two-*b*, three-*a* and three-*b* relating to depository banks; requiring the board of public works to designate a sufficient number of banks as inactive depositories and a number as active depositories in each senatorial district; providing a minimum rate of interest on deposits to be charged active and inactive depositories; reducing the minimum amount of depository bonds from fifty thousand dollars to ten thousand dollars; prohibiting depositories from accepting deposits of state funds for an amount greater than their combined capital stock

and surplus; providing a prompt and efficient method of stopping deposits being made in an insolvent depository, and for removing funds already on deposit in same without advertising its financial condition; providing that all moneys collected for or on behalf of the state shall be turned over to the state treasurer and by him promptly paid into the state treasury; requiring the state treasurer to keep at all times the inactive funds in the treasury distributed among the fifty-five counties upon a basis of the total assessment of all property in each county; providing a method for making deposits in state depositories of moneys received outside of the state; providing for a board of finance; prohibiting the treasurer from depositing state funds in any depository in which he is financially interested.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. State depositories, active and inactive; sufficient number; providing minimum rate of interest on state deposits; times of payment; requirements of depository.
 - 1-a. Amount of deposit; bonds recorded by secretary.
 - 1-b. Deposits not to exceed paid-up capital and surplus.
 - 1-c. No exchange, discount or commission to be charged.
2. Method of deposit; treasurer to verify; duty of depository; auditor's duty; duty of treasurer as to road bonds money; violations; penalty.

Sec.

- 2-a. Duty board of public works; when funds transferred from inactive to active depositories; treasurer's accounts, what to show.
- 2-b. Board of finance created; membership; authority; duty of treasurer to board.
3. Depository shall report; failure, or for other cause, may discontinue.
- 3-a. Equitable share to each depository when treasurer shall pro rate funds.
- 3-b. Treasurer not to deposit funds in bank in which he is financially interested. Penalty; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be the duty of the state board of public works to designate as many state and national banks as state depositories as may be required to take care of the needs of the treasury department. There shall be two classes of depositories, active and inactive.

The said board shall contract with such banks for the payment of interest on all state deposits, at a rate of not less than two and one-half per cent per annum for active, and not less than three per cent per annum for inactive depositories, for such time as any deposit, or part thereof, may remain in such banks. Interest shall be paid every three months, viz.: July first, October first, January first, April first, and shall be computed upon the average daily balances. Payments shall be made by check and forwarded to the state treasurer.

15 Before allowing any money to be deposited with any depository,
16 tory, the board shall require such depository to give bond
17 with good security to be approved by the board of public works,
18 in a penalty of not less than ten thousand dollars, payable
19 to the state of West Virginia, conditioned for the prompt pay-
20 ment whenever lawfully required, of any state money, or part
21 thereof, that may be deposited with such a depository, or of
22 any accrued interest on deposits; which bond shall expire on
23 the thirtieth day of April of each year; *provided, however,* that
24 bonds which have been given prior to the passage of this act
25 may at the discretion of the board remain in force until the
26 date of their expiration.

27 The following bonds may be accepted by the board of public
28 works: Surety bonds by any surety or bonding company
29 authorized to do business in this state; personal bonds by
30 owners of real estate situated within the state and assessed for
31 taxation at a value, free of liens, equal to the penalty of the
32 bond; collateral bonds, consisting of bonds of the United
33 States, this state, or the bonds of any county, district or
34 municipality of West Virginia.

Sec. 1-a. The amount of deposit in any bank shall at no
2 time exceed the full amount of the bond given by each bank, if
3 a surety bond; and three-fourths the amount of all collateral
4 bonds, the value of bonds tendered as such collateral security
5 to be determined by the market value of the same, or by any
6 other equitable method to be adopted by the board of public
7 works; and three-fourths the amount of a personal bond.

8 All depository bonds shall be recorded by the secretary of
9 state in a book kept in his office for the purpose, and a copy
10 of such bond, or record thereof, certified by such secretary,
11 shall be *prima facie* evidence of the execution and contents of
12 such bonds in any suit or legal proceedings. All collateral
13 security shall be delivered to the treasurer and by him retained
14 until the collateral conditions shall have been performed; *pro-*
15 *vided, however,* that the board of public works may contract
16 with one or more banks or trust companies in the state for the
17 custody and safe keeping of such collateral securities and pre-
18 scribe the rules and regulations for the handling and protection.

Sec. 1-b. It shall be unlawful for any depository to accept
2 or retain state deposits for an aggregate amount in excess of
3 its paid-up capital stock and surplus.

Sec. 1-c. It shall be unlawful for any depository to charge
2 or collect any exchange, discount or commission for the pay-
3 ment of any check or draft drawn upon the state funds in its
4 possession.

Sec. 2. All persons, firms or corporations shall promptly
2 pay all amounts due from them to the state by check, draft,
3 post office money order or express money order payable to the
4 state of West Virginia, and shall forward the same to the official
5 or department, board or commission having the same account
6 against the payor, except as hereinafter provided.

7 All payments shall be made in such manner that the amount
8 of no check, draft or order aforementioned shall exceed the
9 sum of twenty-five thousand dollars.

10 All officials or employees of the state shall promptly deposit
11 with the state treasurer all moneys received or collected by
12 them for or on behalf of the state for any purpose whatsoever.
13 They shall make up reports in triplicate upon blank forms
14 approved by the state's chief inspector of accounts, of all
15 moneys received, giving the name and address of the payor, the
16 amount and purpose for which such payment is made. One
17 copy of this report shall be kept by the official or employee
18 making such report and shall become a part of his permanent
19 record. The original and one copy of such report shall be
20 transmitted to the treasurer together with the checks, money
21 orders or drafts listed thereon, *provided, however*, that the
22 treasurer shall have authority to require all public utility cor-
23 porations doing business in this state to make payment of all
24 taxes due the state, and various counties, districts and munici-
25 palities in the state, by depositing the amounts due in one or
26 more state depositories. He may also permit any county official
27 to deposit in one or more depositories all moneys payable by
28 such official to the state or its order. In all such cases, how-
29 ever, the treasurer shall designate the depository or depositories
30 in which such deposits are to be made and the amount to be
31 deposited in each. All such deposits shall be made upon blanks
32 and in the manner prescribed by the treasurer. A duplicate
33 copy of all such deposits shall be immediately forwarded to the
34 state auditor by the taxpayer or official making same. The
35 auditor shall, upon December first of each year, or as soon
36 thereafter as possible, certify to the treasurer the names and

37 addresses of all public utility companies doing business in the
38 state and the amount of taxes due to be paid by each.

39 Promptly upon the receipt of the aforementioned lists and
40 moneys, it shall be the duty of the treasurer to check all items
41 on said lists, and if found correct, he shall properly endorse
42 all checks, drafts or money orders listed on each original list,
43 and shall write or stamp in the proper place on both the orig-
44 inal list and copy the name and address of the depository in
45 which he desires to make the deposit, and shall mail or send
46 the original list and moneys listed thereon to the depository.
47 He shall also date and sign the copy of all such lists received
48 by him and forward same promptly to the auditor to be filed
49 by him to become a part of the records of his office.

50 The treasurer shall file with the auditor a like copy of de-
51 posits of all moneys received by him from other sources than
52 those above mentioned.

53 Immediately upon receipt of such list and deposit, it shall
54 be the duty of the depository to credit the state treasury with
55 the amount, date and sign the certificate of deposit by some
56 legally constituted official of the depository and return it to the
57 auditor, who shall upon receipt of the same and by the endorse-
58 ment thereof, direct upon what account or accounts the treas-
59 urer shall receipt for the payment, and if on more than one
60 account, he shall direct what amount is to be credite on each.
61 Upon presentation to him of such certificate, the treasurer shall
62 retain and file the same, charging the amount specified therein
63 to the proper bank and the proper account and shall deliver to
64 the auditor a receipt in duplicate for the amount, stating the
65 amount credited on each account according to the direction of
66 the auditor, endorsed on the certificate.

67 The auditor shall endorse on the original receipt as follows:
68 "A duplicate hereof has been filed in the auditor's office," and
69 affix his signature and the proper date of such endorsement,
70 which original receipt he shall then deliver to the payor and
71 retain and file the duplicate in his office, and charge the amount
72 thereof to the treasurer's account, and no receipt of
73 the treasurer shall be an acquittance or discharge to
74 any person or for any sums of money due this state,
75 unless ordered by the auditor as aforesaid, and any
76 person liable to pay money into the treasury, who
77 shall pay the same otherwise than according to this chap-

78 ter, shall be and remain liable for such money, and be
79 subject to the same fine, penalty, forfeiture or damage to which
80 he would have been subject if he had not paid the same.

81 Any payments of money made to the state for road bonds or
82 other purposes in places other than this state, the treasurer
83 shall have authority to place same to the credit of the state
84 account of one or more state depositories in their correspondent
85 banks located within or without the state. The treasurer shall
86 upon making such deposits in such correspondent banks, secure
87 from them proper certificates of deposit certifying the amount
88 and the name of the state depository to whose credit the deposit
89 was made by the treasurer. The treasurer shall forward a copy
90 of such certificates to the state depositories receiving such de-
91 posits through their correspondent banks, and it shall be the
92 duty of such depositories to immediately issue to the state of
93 West Virginia a proper certificate of deposit for the amount so
94 deposited and dated the same day the deposit was made in such
95 correspondent bank. Before making such deposits, however,
96 the treasurer shall secure written authority from such deposi-
97 tories, designating the name and address of their correspondent
98 bank or banks in which deposits are to be made and the maxi-
99 mum amount to be deposited in each. The depository bonds of
100 all state depositories so authorizing and receiving such depos-
101 its in their correspondent banks shall be liable for such de-
102 posits the same as if the deposits had been made to them
103 direct, whether the said bonds are so conditioned or not, and
104 all depository bonds hereafter issued shall so provide.

105 Any official, person, bank, firm or corporation violating
106 any of the provisions of this section shall be guilty of a misde-
107 meanor, and upon conviction be fined not less than ten or more
108 than one hundred dollars.

Sec. 2-a. Immediately after this bill becomes a law, it shall
2 be the duty of the state board of public works to designate not
3 less than one nor more than five depositories in each senatorial
4 district as active checking depositories if said board can find
4-a suitable depositories to act in such capacity, through which
5 disbursements of all moneys shall be made, except as hereinafter
6 provided. All other depositories shall be known as inactive de-
7 positories. The treasurer shall transfer funds from the inactive
8 to the active depositories whenever actually needed to pay the
9 warrants drawn by the auditor upon the treasury, or equalize

10 deposits, *provided, however*, that he may draw checks upon any
11 inactive depository for disbursement of the tax moneys collected
12 by the state from the public utility companies for the counties,
13 districts and municipalities. All checks drawn for transfer of
14 funds from the inactive to the active depositories shall have print-
15 ed or stamped on the face of same "for transfer of funds only."

16 The treasurer shall keep in his office a record showing the
17 account of each depository, both active and inactive, under
18 which entry shall be made showing the amounts of each deposit,
19 the date of each and withdrawals, the date thereof and balance
20 on deposit.

21 The appointment of both active and inactive depositories
22 shall be for a period of one year.

Sec. 2-b. There is hereby created a board of finance, com-
2 posed of the governor, auditor and treasurer, of which the
3 governor shall be chairman and the auditor shall be secretary;
4 said board shall have the authority to determine the proportion
5 of all state funds that shall be treated as active funds and shall
6 have the authority to determine the basis upon which the inac-
7 tive funds due any county shall be distributed among its inac-
8 tive depositories and any other rules and regulations that it may
9 deem necessary or expedient to protect the interest of the state,
10 its depositories and taxpayers. The treasurer shall furnish said
11 board of finance, not later than the tenth of each month, a
12 statement showing the balances on the last day of the preceding
13 month in each active and inactive bank.

Sec. 3. Each depository of state funds shall once in every
2 three months, namely: the last day of June, September, De-
3 cember and March, by its president or cashier report to the
4 board of public works the amount of state funds on deposit
5 therein and said report shall be verified by the affidavit of the
6 officer making it. For the failure so to report, or for any other
7 cause, the board of public works may discontinue any deposi-
8 tory and cause all state funds to be withdrawn from any deposi-
9 tory or depositories so discontinued. When a depository is
10 discontinued, the board of public works shall immediately
11 notify such depository of its discontinuance, and shall also
12 issue its order to the treasurer, directing him to immediately
13 withdraw by current checks or transfer to another depository
14 or depositories the full amount of the deposits held by any
15 depository so discontinued, and after such discontinuance it

16 shall be unlawful for the treasurer to deposit any state funds
17 in any such depository so discontinued.

Sec. 3-a. It shall be the duty of the treasurer to keep at all
2 times in the depositories of each county, an equitable share of
3 the total amount of the inactive money in the state treasury.
4 The total assessment of all property in each county for the
5 preceding fiscal year shall be taken as the basis for such appor-
6 tionment.

7 If at any time the depositories of any county or counties in
8 any senatorial district do not have sufficient bonds to cover
9 their share of the inactive funds due them, the treasurer shall
10 pro rate the surplus among all the other counties in said dis-
11 trict having sufficient bonds.

Sec. 3-b. It shall be unlawful for the treasurer during his
2 term of office to deposit state funds in any state depository
3 bank in which he is financially interested. Any treasurer
4 violating the provisions of this section shall be guilty of a mis-
5 demeanor, and shall upon conviction thereof be fined not less
6 than one hundred or more than five hundred dollars, and such
7 conviction shall operate a forfeiture of his office.

8 All acts or parts of acts inconsistent with the provisions of
9 this act are hereby repealed.

CHAPTER 9

(House Bill No. 276—By Mr. Tutwiler)

AN ACT to amend and re-enact section twelve of chapter ten of
Barnes' code one thousand nine hundred and twenty-three
code of West Virginia, relating to bonds of state officers.

[Passed April 24, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 1. Bonds of state officers; amounts; | cost; how paid; inconsistent acts
repeated.

Be it enacted by the Legislature of West Virginia:

That section twelve of chapter ten of Barnes' code of one thousand nine hundred and twenty-three relating to bonds of state officers, be amended and re-enacted so as to read as follows:

Section 1. The secretary of state, auditor, treasurer, state
2 superintendent of schools and state librarian, shall each give a

3 bond executed by some surety or bonding company authorized
 4 to do business in this state, to be approved by the governor.
 5 The bond of the secretary of state shall be in the penalty of ten
 6 thousand dollars; that of the auditor in twenty thousand dollars;
 7 of the treasurer in three hundred thousand dollars; of the state
 8 superintendent of free schools in three thousand dollars. The
 9 bond of the secretary of state shall be filed in the office of the
 10 auditor and all other bonds mentioned in this section, in the
 11 office of the secretary of state.

12 The cost of all such bonds shall be paid out of the state
 13 treasury.

14 All acts or parts of acts inconsistent with this act are hereby
 15 repealed.

CHAPTER 10

(House Bill No. 423—By Mr. Underwood)

AN ACT to authorize the state sinking fund commission to make temporary investment of funds belonging to the state of West Virginia in bonds or treasury certificates of the government of the United States, bonds of the state of West Virginia, or bonds of any county, district, school district, independent school district or municipality of the state.

[Passed April 23, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec. 1. Invest treasury funds in bonds, earnings to permanent investment fund, how invested.	Sec. 2. May sell to other fund; may not be purchased or sold for less than par.
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Be it enacted by the Legislature of West Virginia:

Section 1. Upon the application of the governor, the
 2 state sinking fund commission, at its discretion, may make
 3 temporary investment of any funds in the state treasury,
 4 in the bonds or treasury certificates of the government
 5 of the United States or bonds of the state of West
 6 Virginia, or bonds of any county, district, school district,
 7 independent school district or municipality of the state.
 8 Bonds so purchased shall be and remain in the custody
 9 of the state treasurer. The earnings from investments
 10 so made shall be credited to the permanent investment
 11 fund which is hereby created and shall be carried

12 on the books of the state sinking fund commission.
 13 Said permanent investment fund shall be invested in treasury
 14 certificates or bonds mentioned in this section and the earnings
 15 from same shall be credited as earned to the general school
 16 fund.

Sec. 2. Said commission shall, when requested by the gov-
 2 ernor, sell such treasury certificates or bonds held as tem-
 3 porary investment for state funds, to some other fund under its
 4 control, or sell same to the workmen's compensation fund; *pro-*
 5 *vided*, that no bond may be purchased for more than par or
 6 sold for less than par, unless the bond so sold was purchased
 7 for less than par, in which case the bond cannot be sold for
 8 less than the purchase price.

CHAPTER 11

(House Bill No. 447—By Mr. Brown, by request)

AN ACT to promote the efficiency of the West Virginia national
 guard and to bring the military laws of the state in con-
 formity with the laws and regulations of the United States,
 and to amend chapter eighteen of Barnes' code of one thou-
 sand nine hundred and sixteen as amended, by amending and
 re-enacting sections eight, twenty-two, twenty-four, thirty-
 two, thirty-eight, thirty-nine, forty, forty-four, forty-five,
 forty-nine, seventy-three, seventy-four, seventy-five, seventy-
 seven, seventy-eight, seventy-nine, eighty-six, eighty-seven,
 eighty-eight, and repealing sections twenty-six and twenty-
 seven of chapter eighteen of Barnes' code of West Virginia
 of one thousand nine hundred and sixteen as amended.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.	Sec.
8. Staff of commander-in-chief; adju- tant general appointed by govern- nor; qualifications, compensation; duties.	45. Pay and allowance.
22. Promotion by seniority; second lieutenant by election; reasons for discharge.	49. Drills and target practice.
24. Non-commissioned officers of the staff corps, how appointed.	73. Officer's trials; offenses; penalties.
32. Enlistment; qualifications.	74. Enlisted men trials; offenses; pen- alties.
38. Discharge, regulations concerning.	75. Summary court martial; returns to be made to; record.
39. Power to reduce or discharge.	77. Courts martial procedure; how summons issued; penalty for re- fusal to serve.
40. Uniforms and equipment.	78. Form of summons; procedure un- der.
44. Pay and allowances; proper vouch- ers; competitive bids for work or material; transportation.	79. Summons and judgment; jurisdic- tion.
	86. Collecting fines and penalties; in- consistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of Barnes' code of one thousand nine hundred and sixteen as amended, be amended by repealing sections twenty-six and twenty-seven; and that sections eight, twenty-two, twenty-four, thirty-two, thirty-eight, thirty-nine, forty, forty-four, forty-five, forty-nine, seventy-three, seventy-four, seventy-five, seventy-seven, seventy-eight, seventy-nine, eighty-six, eighty-seven and eighty-eight as amended, be amended and re-enacted to read as follows:

Section 8. The staff of the commander-in-chief shall consist 2 of one adjutant general with rank of brigadier general; and 3 in addition thereto, six aides with rank not above that of 4 colonel may be detailed from the line, such details to be made 5 at the pleasure of the commander-in-chief. The commander- 6 in-chief may also appoint and commission an honorary staff 7 to serve during his term of office, of such number as he may 8 deem advisable, with such rank as he may fix, which honorary 9 staff will not be held to be a part of the regularly organized 10 militia. The adjutant general shall be appointed and com- 11 missioned by the governor, but no person shall be appointed 12 adjutant general unless such person has had at least one year's 13 service in the national guard of this or some other state, or in 14 the army of the United States, or in all combined. In time 15 of peace he shall perform the duties of chief of the pay, 16 quartermaster and ordnance departments unless otherwise 17 ordered by the governor, and shall give bond in such sum 18 as the commander-in-chief may require, such bond to be pro- 19 vided in like manner as the bonds of other officers. He shall 20 receive a compensation of four thousand dollars per annum 21 which shall be paid to him in equal monthly installments, and 22 his term of office shall be for four years. He shall attest, 23 record and seal with the seal of the state all commissions issued 24 by the governor, and keep a register of all commissioned 25 officers, with dates of commission, and all changes occurring 26 in the commissioned force, and shall keep a full and complete 27 record at all times of the organized militia of the state. He 28 shall as soon as possible after the first day of July in each year, 29 make a report to the commander-in-chief of the transactions 30 and the expenditures of his department and the condition of 31 the national guard; said report shall show all receipts into

32 the military or militia fund of the state from every source,
33 including fines, appropriations from the state, and all moneys
34 received from the federal government, and from every other
35 source; all such funds and moneys shall be paid into the state
36 treasury as soon as received, and shall be credited to the mili-
37 tary fund. Said statement shall also show in detail all expendi-
38 tures made from each fund, and the purpose of the expenditure,
39 and shall state such other details as the governor may order;
40 and said report shall be communicated by the governor to
41 the next session of the legislature. He shall also make such
42 other reports and returns as may be required by the com-
43 mander-in-chief from time to time. He shall cause to be pre-
44 pared and issued to the different organizations of the national
45 guard all necessary books and blanks for reports, records,
46 returns and general administration, and shall, at the expense
47 of the state, cause the military laws, military code and rules
48 and regulations in force to be printed, bound in proper form,
49 and distributed, one copy to each commissioned officer, and
50 one each to all the circuit, intermediate and criminal court
51 judges, sheriffs, assessors, and justices of the peace in the
52 state requiring them; and shall procure and supply all neces-
53 sary text books of drill and instruction. He shall keep in
54 his office an accurate account of all state or United States prop-
55 erty issued to the state. He shall keep on file in his office
56 all official bonds, except the bond of the adjutant general,
57 which shall be filed with the auditor of the state; the reports
58 and returns of troops and heads of military departments,
59 and all other writings and papers which are required, to be
60 transmitted to and preserved at the general headquarters of
61 the state militia. He shall employ such clerical force and
62 assistants as may be required in the military department; *pro-*
63 *vided*, that not to exceed the sum of ten thousand dollars
64 shall be expended for this purpose in any one year; he shall
65 keep all records of volunteers from the state of West Virginia,
66 commissioned or enlisted, in any of the wars of the United
67 States, and of individual claims of citizens of West Virginia
68 for service rendered in such wars. He shall assist all persons
69 residing in the state of West Virginia having claims against
70 the United States for pension, bounty or back pay, or such
71 claims as have arisen out of, or by reason of service, in any

72 of said wars. To this end he shall co-operate with the agents
73 or attorneys of said claimants, furnish to claimants only all
74 necessary certificates or certified abstracts from, or copies of,
75 records or documents in his office, and shall in all practicable
76 ways seek to secure speedy and just action in all claims now
77 pending or which may hereafter be filed; *provided*, that any
78 and all the above services shall be rendered without charge to
79 the claimant. He shall establish and maintain as a part of his
80 office a bureau of records of the services of the West Virginia
81 troops during the said wars, and shall keep arranged in proper
82 and convenient form all records and papers pertaining thereto.
83 The provisions of this section shall not be held to affect the
84 commission of any officer serving on the governor's staff at
85 the date of the passage of this act, nor until the expiration
86 of the term for which such officer was appointed; nor shall
87 any such officer be deprived of any compensation allowed to
88 him by law at the time of the passage of this act, nor until the
89 expiration of the term for which such officer was appointed.

Sec. 22. Promotion to and in the grade of field officer shall
2 be made according to seniority in the line officers assigned
3 to each regiment or separate battalion; to the grade of captain
4 and first lieutenant in the line according to seniority in the
5 line of officers assigned to each company and corps; and to
6 the grade of second lieutenant in the line by election of from
7 one to three candidates who shall take such competitive exami-
8 nation as may be prescribed by the commander-in-chief, and
9 that candidate passing said examination with the highest
10 rating shall be eligible to the appointment; *provided*, that no
11 promotion shall be made until an officer shall have passed a
12 satisfactory examination by a board consisting of three officers
13 appointed by the brigade commander; and, *provided* that, after
14 satisfactorily passing an examination for promotion to the
15 next higher grade, an officer may, with the approval of the
16 brigade commander, waive his right to such promotion; in
17 which case, and in case of a vacancy remaining unfilled by
18 reason of the failure of an officer to pass his examination, the
19 vacancy shall be filled by the qualified officer next for promo-
20 tion. Should an officer fail to pass such examination, the
21 next qualified officer shall be promoted to the vacancy, and
22 the officer failing shall within one year be given another oppor-

23 tunity to pass such examination, and again failing he shall
24 be discharged from the service of the state. In the event an
25 officer ordered before an examining board fails to appear at
26 the time and place specified in the order, he shall be discharged
27 from the service of the state unless the brigade commander
28 shall excuse such officer from such attendance upon satisfactory
29 evidence that he was unable at the time to attend.

Sec. 24. All non-commissioned officers of the staff corps
2 departments and other organizations of the national guard and
3 of the militia, shall be appointed by the appointing authority
4 prescribed by federal law and regulations as are now, or may
5 hereafter from time to time, become operative and applicable.

Sec. 32. Able-bodied men of good character who conform
2 in all respects to the qualifications prescribed in said law and
3 regulations now in force, or that may hereafter become operative
4 and applicable governing enlistment in the national guard, may
5 be enlisted in the national guard of West Virginia under the
6 same conditions and the same enlistment period as are now, or
7 may hereafter be, prescribed by federal law for the national
8 guard of the United States. Every enlisted man if in active
9 service may continue to be held for duty for a period not ex-
10 ceeding three months after the expiration of his term of en-
11 listment or re-enlistment, and shall retain rank and be eligible
12 to promotion until he is actually discharged. When an organiza-
13 tion is consolidated or disbanded, its enlisted men discharged
14 by reason thereof who shall hereafter re-enter the service shall
15 have allowed to them as part of their term of service the time
16 already served.

Sec. 38. Whenever any enlisted man of the national guard
2 shall have performed service therein for the term of his enlist-
3 ment or re-enlistment, and has turned in to the proper officer all
4 state or military property for which he is responsible, the com-
5 manding officer of his battery, company or corps shall grant
6 him a full and honorable discharge from the military service of
7 the state, except in time of insurrection or invasion. Discharge
8 for physical disability shall be granted upon the certificate of
9 a medical officer. The commander-in-chief or the commanding
10 officer of a brigade may, for sufficient reason, and in his dis-
11 cretion, discharge enlisted men under his command, with or
12 without their consent, at any time, upon the recommendation

13 of the commanding officer of the battery, company or corps, regi-
14 ment or battalion to which they belong; but no enlisted man
15 shall be honorably discharged from service unless he produces
16 the certificate of his immediate commanding officer that he has
17 turned over or satisfactorily accounted for all property issued
18 to him. Enlisted men may be honorably discharged, discharged,
19 or discharged dishonorably; but in no case may an enlisted man
20 be dishonorably discharged, unless by sentence of a general
21 court-martial except as hereinafter provided.

Sec. 39. The officer warranting non-commissioned officers
2 shall have power to reduce, or reduce to the ranks, on the ap-
3 plication of the immediate commanding officer of the organiza-
4 tion to which he belongs, for good and sufficient reasons, the
5 non-commissioned officers of his command; *provided, however,*
6 that in active service for the state, in cases requiring immediate
7 example, a non-commissioned officer may be reduced to the
8 ranks by his immediate commander, subject to appeal to, and
9 review and approval by, the officer warranting him; and an
10 enlisted man who can not, after due diligence, be found, or
11 who shall remove his residence from the state, or to such a dis-
12 tance from the armory of his organization, as to render it im-
13 practicable for him to perform properly military duties, or who
14 shall be convicted of a felony, or who shall be expelled from his
15 organization in accordance with by-laws lawfully adopted, may
16 be discharged by order of the commander-in-chief.

Sec. 40. The uniform, arms and equipment and military
2 supplies necessary for the proper performance of the duties re-
3 quired by this chapter, shall be similar to those prescribed for
4 the army of the United States. Commissioned officers shall
5 provide themselves with the uniform, arms and equipment law-
6 fully prescribed and approved, and there shall be allowed an-
7 nually, to aid them in procuring and maintaining same in con-
8 dition for service, the sum of seventy-five dollars each. All uni-
9 forms, arms, equipment and other property shall be issued to
10 organizations of the national guard, and accounted for under
11 such regulations as the commander-in-chief may prescribe.

Sec. 44. The pay for officers and enlisted men of the West
2 Virginia national guard for service at camps of instruction,
3 rifle practice, practice marches and maneuvers, or other duties
4 ordered by the President of the United States, shall be such as

5 are provided in the national defense act or amendments thereto.
6 Officers and enlisted men, when employed in the actual service
7 of the state as defined and provided in this act, beginning on
8 the day they assemble at their armories or other designated places,
9 until the day they have returned thereto and been properly re-
10 lieved inclusive, fractional parts of a day counting as a full
11 day, shall receive pay and allowances at the following daily
12 rates:

13 *Officers.* The same pay and allowances which are now in
14 effect, or which may hereafter be provided for like grades
15 in the army of the United States. Transportation and sub-
16 sistence will be provided by the state.

17 *Enlisted Men.* First grade, master sergeants, etc., four dol-
18 lars and fifty cents per day; second grade, technical and first
19 sergeants, etc., three dollars and seventy-five cents per day;
20 third grade, staff sergeants, etc., three dollars and fifty cents
21 per day; fourth grade, sergeants, etc., three dollars per
22 day; fifth grade, corporals, etc., two dollars and fifty cents
23 per day; sixth grade, privates first class, etc., two dollars
24 and twenty-five cents per day; seventh grades, privates,
25 two dollars per day; cooks, three dollars per day;
26 assistant cooks, two dollars and fifty cents per day.
27 Transportation and subsistence will be provided by the
28 state.

29 All payments made under the provisions of this chapter ex-
30 cept for active service, shall be paid out of the military fund
31 and all expenses incurred in active service shall be paid out of
32 any moneys in the treasury not otherwise appropriated. The
33 military fund shall be disbursed on warrant of the adjutant
34 general, properly drawn, and in such manner as the governor
35 may order, but no warrant for funds signed by him shall be
36 honored by the auditor until such adjutant-general shall have
37 executed and filed such bond as may be required by the com-
38 mander-in-chief. Payments shall be made on proper vouchers,
39 which vouchers shall show the authority under which the ex-
40 penditures are made, contain an itemized statement of the trans-
41 action, and be filed for record in the office of the adjutant gen-
42 eral. All claims for services rendered or material furnished
43 shall be approved by the officer ordering the work or material,
44 and shall be over his certificate to the effect that the amount is

45 just and reasonable, and that it has not been previously paid. No
46 expenditures shall be made by any officer until an estimate of
47 the amount and a statement of the necessity therefor shall have
48 been laid before the adjutant general and his approval received.
49 Where practicable, competitive bids shall be received for all
50 work or material involving an expenditure of more than two
51 hundred dollars, and the contract will be let to the lowest re-
52 sponsible bidder, who, if required by the commander-in-chief,
53 shall enter into a good and sufficient bond for the proper per-
54 formance of his contract. The several railroads and other trans-
55 portation companies in this state shall furnish transportation
56 for all officers and enlisted men in the national guard, together
57 with the stores, ammunition and equipment, when traveling on
58 duty under orders from competent authority, on request of the
59 officer desiring transportation, which request will state the num-
60 ber of persons to be carried, and their destination, and for such
61 transportation said companies shall be entitled to receive com-
62 pensation from the state at the rate specified.

Sec. 45. There shall be allowed to each regimental head-
2 quarters for clerical service, the sum of one hundred and fifty
3 dollars per month, and to each company, or corresponding unit,
4 the sum of twenty dollars per month for like services, payable
5 quarterly. There shall be paid to each regimental commander,
6 one hundred dollars per month; to each battalion commander,
7 fifty dollars per month, payable quarterly, to be known as
8 command pay.

9 The commander-in-chief may by order, direct the above-
10 mentioned organization commanders to make certain inspec-
11 tion of the organization in his command, and file report thereon,
12 not exceeding four visits to each of said organization in any
13 one year, and for which the said commanding officer (colonel
14 or major) shall receive no other compensation that that men-
15 tioned herein, but may be re-imbursed his actual traveling
16 expenses.

17 There shall be paid to the enlisted man who is directly
18 responsible for the care and custody of the federal and state
19 property of each organization, and to the chief mechanic of
20 each battery of artillery, the sum of ten dollars per month,
21 payable quarterly, upon the certificate of his commanding
22 officer that he has faithfully and satisfactorily performed the

23 duties assigned him and accounted for all property entrusted
24 to his care.

Sec. 49. Brigade, regiment, battalion and company com-
2 manders may in their discretion order drills of such portion of
3 their command as may be deemed necessary; and may in their
4 discretion order target practice for their command; *provided*,
5 that if an expense is to be incurred, authority must be obtained
6 from the adjutant general.

Sec. 73. Commissioned officers may be tried by a general
2 court-martial for the following offenses:

3 *First.* For unmilitary or unofficer-like conduct.

4 *Second.* For drunkenness on duty.

5 *Third.* For neglect of duty.

6 *Fourth.* For disobedience of orders or any act contrary to
7 the provisions of this chapter, or to the provisions of the regu-
8 lations for the government of the national guard.

9 *Fifth.* For refusing to grant a discharge to an enlisted man
10 when entitled to the same.

11 *Sixth.* For oppression or injury of any one under his com-
12 mand.

13 *Seventh.* For a combination or attempt to break, resist or
14 evade the laws or lawful orders given to a person, or advising
15 any person so to do.

16 *Eighth.* For insult to a superior officer.

17 *Ninth.* For presuming to exercise his command while under
18 arrest or suspension.

19 *Tenth.* For neglect or refusal when commanding officer to
20 order out the troops under his command when required by law
21 or lawfully ordered by his superior officer.

22 *Eleventh.* For neglect or refusal to make a draft or de-
23 tachment when lawfully ordered to do so.

24 *Twelfth.* For parading the troops under his command on
25 days of election contrary to law.

26 *Thirteenth.* For receiving any fee or gratuity for any certi-
27 ficate.

28 *Fourteenth.* For neglect when detailed to drill or instruct
29 a command, to make complaint for neglect or violation of duty
30 as provided by law, or for any other neglect for which a com-
31 manding officer would be liable.

32 *Fifteenth.* For making a false certificate, account or muster
33 or parade or property return.

34 *Sixteenth.* For conduct unbecoming an officer or a gentle-
35 man, or for conduct to the prejudice of good order and mili-
36 tary discipline.

37 On conviction of any of the above-named offenses, officers
38 may be sentenced to be dismissed, and shall thereby become in-
39 capacitated from holding any military commission, fined to any
40 amount not exceeding one hundred dollars, but in addition may
41 be confined for a period not exceeding sixty days in the county
42 jail of the county. The order of the general court directed to
43 the jailer of said jail shall be sufficient authority for said jailer
44 to receive and confine said prisoner.

Sec. 74. Enlisted men, in time of peace, may be tried by a
2 general court-martial:

3 *First.* For disobedience of orders.

4 *Second.* For disrespect to his superior.

5 *Third.* For mutiny.

6 *Fourth.* For desertion.

7 *Fifth.* For drunkenness on duty.

8 *Sixth.* For conduct prejudicial to good order and military
9 discipline.

10 *Seventh.* For any act contrary to the military code, or to
11 the provisions of the regulations for the government of the na-
12 tional guard, or to the by-laws of the organization to which he
13 belongs, except for the non-payment of dues and fines.

14 On said conviction, such enlisted man may be sentenced to
15 be dishonorably discharged with loss of time served, reprimand-
16 ed, and if a non-commissioned officer, reduced to the ranks, or
17 may be fined not to exceed fifty dollars, and in addition thereto
18 may be confined in the county jail for a period of not exceeding
19 sixty days in the county wherein said general court-martial is
20 held, and the order from the appointing and approving authori-
21 ty of said general court directed to the jailer of said county
22 jail, shall be sufficient authority to receive and confine said
23 prisoner in said jail.

Sec. 75. The commanding officer of a brigade, regi-
2 ment or battalion not a part of the regiment, or the com-
3 manding officers of separate companies not a part of a regi-
4 ment or battalion, may appoint a summary court to consist

5 of one commissioned officer of his command, for the trial of
6 enlisted men. Any officer so detailed may be relieved from
7 the duties of such court at any time by the officer appoint-
8 ing him, or his successor in office, and another detailed as
9 such court. Proceedings pending before such court shall not
10 abate or be suspended by reason of such relief and new de-
11 tail; and any officer so detailed shall have full power and
12 authority to do and perform all acts necessary to complete
13 any proceedings pending before the court to which he was
14 appointed, and to carry into effect any judgment, mandate,
15 order or processes made or issued by such court previous to
16 such relief and new detail. A summary court so appointed
17 shall be permanent and continuous. Its sessions shall be held
18 at such times, and in such places, as may be most convenient
19 for the prompt dispatch of the business of the court, within
20 the discretion of the officer constituting the same. The officer
21 constituting such court may appoint, and at any time remove,
22 a clerk thereof, who shall receive a reasonable compensation
23 to be fixed by such officer, not to exceed one dollar for each
24 man tried which amount will be taxed as a part of the cost
24-a in said case.

25 It shall be the duty of the commanding officers of every
26 regiment or battalion, and of every company, battery or corps
27 attached to a regiment or battalion, and of every battalion,
28 separate company and corps, to make return to the summary
29 court appointed for, or having jurisdiction over the enlisted
30 men of his command, as herein provided, of all delinquents
31 in his command; whereupon such delinquents will be forth-
32 with summoned to appear before such summary court at the
33 time and place designated in the summons. The record of
34 trial of such court shall, without delay, be delivered to the
35 officer ordering the court, or to his successor in command, who
36 shall approve or disapprove the same within ten days there-
37 after.

Sec. 77. The president of a summary court shall designate
2 and direct a fit person or persons to summon all delinquents
3 to appear before the court. Service of the summons shall be
4 made by the person so designated in the same manner as
5 service of processes in civil cases. The person serving said
6 summons shall receive a fee of one dollar for such service,

7 together with five cents per mile in necessary travel for the
8 service of said summons, and said fee of one dollar, together
9 with mileage, shall be taxed as a part of the costs in said pro-
10 ceeding.

11 Such summons may be directed by the president of the
12 summary court to the duly elected sheriff, or his deputy, a
13 duly elected constable, a member of the department of public
14 safety to any individual in the county where such delinquent
15 resides, or may be found for service, and it shall be the duty of
16 such person in whose custody the summons has been placed for
17 service, forthwith to serve same, if the delinquent be found,
18 and return, with service of return, before the return day of the
19 summons, to the president of the summary court. The return
20 of service of said summons shall be in form and effect the
21 same as is customarily used by officers in making returns in
22 civil processes. Any member of the department of public
23 safety, duly elected sheriff, or his duly appointed deputy, or
24 duly elected constable or individual, who shall refuse, fail,
25 neglect or refuse to serve said summons and make his return
26 thereon to the president of the court before the return day of
27 said summons, shall be deemed guilty of a misdemeanor, and
28 on conviction thereof before a justice of the peace shall be fined
29 in a sum not to exceed fifty dollars.

Sec. 78. The form of summons issued by summary courts
2 provided by this chapter shall be substantially as follows, the
3 blanks being properly filled in:

4 **SUMMONS**

5 The State of West Virginia:

6 To....., who is hereby designated and
7 directed to serve this summons:

8 You are commanded to summon.....
9 to personally appear before the summary court for the trial
10 of himself, which will meet pursuant to the laws of the state
11 of West Virginia, at, West Vir-
12 ginia, on the day of
13 19....., at o'clock m., by virtue of
14 orders No. from headquarters....
15 to answer delinquencies for
16 offenses against
17 (Herein describe briefly the offense charged).....
18

19 Given under my hand this the day of
 20 19.

21 (Signature and rank of presiding officer)
 22 West Virginia National Guard,
 23 President of the Court.

24 On the return day of the summons the president of the
 25 summary court shall hear the evidence and render judgment
 26 thereon as the case may be; if, however, on the return day
 27 of the summons the accused fail to appear, after having been
 28 duly served with said summons, the president of the sum-
 29 mary court shall proceed to hear the evidence and try the
 30 accused in his absence and render judgment thereon as the
 31 case may be and the facts warrant, and if such judgment be for
 32 a fine and costs solely, the president of the summary court
 33 shall forthwith issue an execution in form and effect as herein-
 34 after set forth and place it in the hands of the sheriff of the
 35 county wherein the accused may be found; and if, however, the
 36 judgment of the summary court against the accused is for
 37 confinement in the county jail, the president of the summary
 38 court shall forthwith issue an order directed to the sheriff
 39 of the county wherein the accused may be found, directing
 40 said sheriff to take into custody the body of the accused and
 41 confine him in the county jail of the county where said sum-
 42 mary court proceeding was had for the period of the judg-
 43 ment. Such order so delivered by the said president of the
 44 said summary court shall be co-extensive with the state and
 45 further, such order shall be sufficient evidence and authority
 46 for the jailer of said county jail to receive the body of the
 47 accused and confine him in the county jail pursuant to said
 48 judgment; and further no prescribed form of order for con-
 49 finement of the accused shall be required.

50 Any sheriff who fails, neglects or refuses to perform any
 51 duty required of him by this section by reason of any order
 52 of confinement directed by the president of any courts mar-
 53 tial, shall be guilty of a misdemeanor and upon conviction
 54 thereof shall be fined not less than fifty dollars, nor more than
 55 one hundred dollars for each offense.

Sec. 79. Commanding officers of companies, batteries, corps
 2 or similar organization of the national guard, upon receiving
 3 information as to the whereabouts of any officer or enlisted
 4 man of their organization who is absent from any drill, parade

5 or other prescribed duty without having been properly excused,
 6 may cause said officer or enlisted man to be taken into custody
 7 and forthwith conveyed to the organization rendezvous to be
 8 there kept until such duty is completed or until relieved by
 9 said organization commander and said organization commander
 10 is hereby authorized to direct any or all members of his com-
 11 mand at his discretion to apprehend said officer or enlisted
 12 man and convey him to said organization rendezvous.

13 Execution for the purpose of either collecting the fine and
 14 costs or imprisoning the delinquent for failing to pay the same
 15 shall be substantially in the following form, blanks being
 16 properly filled in:

17 The State of West Virginia:

18 To the sheriff of County, greeting:

19 WHEREAS, pursuant to the laws of the state of West Vir-
 20 ginia, by an order duly issued by (name and rank of officer
 21 ordering court), of the West Virginia national
 22 guard, and dated on the day of, 19...,
 23 a court was duly appointed, for (state object of court).....
 24 and,

25 WHEREAS, the said court was duly and regularly convened
 26 and from time to time duly adjourned; and

27 WHEREAS, (name and rank of accused).....
 28 in (organization)..... of the West Virginia national
 29 guard, was duly and regularly returned to said court, as
 30 required by law, charged with (state whether accused was
 31 charged with delinquencies of offenses against the military code,
 32 without specifying character thereof) as appears by (either
 33 summons or charges and specifications, as the case may be)
 34 duly filed with said court, and was duly summoned and notified
 35 to appear before said court; and it satisfactorily appearing to
 36 the court that such was and is a
 37 of the West Virginia national guard and subject to the juris-
 38 diction of the court; and after due deliberation of the evidence
 39 offered by the state and the accused, the court did find and
 40 adjudge the said (state finding).....
 41 and did sentence him to pay a fine of..... dollars, and did
 42 also sentence him to pay fines for offenses against the by-laws,
 43 rules and regulations of the said regiment, battalion,
 44 battery, company or corps (as the case may be)..... of

45 dollars, and dues of dollars, making a total fine
46 of dollars; and,

47 WHEREAS, the proceedings, findings and sentences of such
48 court were thereafter duly approved by the
49 officer ordering said court.

50 These are therefore in the name of the state of West Vir-
51 ginia to command you to levy and collect said fines, together
52 with the sum of dollars, being your costs,
53 according to law, of the goods and chattels of and
54 in default of sufficient goods and chattels of such,
55 to satisfy the same; then, to take the body of such delinquent
56 to the common jail of county, and deliver him
57 to the jailer thereof; and the said jailer is hereby directed and
58 requested to receive the body of such con-
59 veyed to the jail aforesaid, and to keep such
60 closely confined and in the manner and during the time required
61 by law, and until discharged according to law, for which this
62 shall be his warrant; and of your doings by virtue thereof to
63 make return to me within forty days after the execution of
64 these presents.

65 Given under my hand at and state of West Vir-
66 ginia, on the day of, 19.....

67 (Signed).....

68 (Rank and organization of presiding officer.)

69 West Virginia national guard,

70 President of the court.

71 The papers constituting the summons and judgment entered
72 on the back thereof and the execution shall each and all be
73 *prima facie* evidence of the facts therein or therein stated,
74 before all courts. The jurisdiction of the courts established
75 by this chapter shall be presumed and the burden of proof
76 shall rest with the person seeking to oust any such court of
77 jurisdiction in any matter or proceeding.

78 Enlisted men who shall, without proper excuse be absent
79 from, or in any other respect be delinquent at any drill, parade,
80 encampment, meeting for instruction or other duty ordered by
81 competent authority, may be fined by a summary court not
82 more than five dollars, and imprisoned not more than five days
83 in jail for each offense or delinquency.

84 The aggregate punishment under this section shall not exceed
85 thirty days' jail sentence at any one time.

Sections eighty-six, eighty-seven and eighty-eight are amended and re-enacted so as to read as follows:

Sec. 86. For the purpose of collecting any fines or penalties imposed by any court-martial or summary court, the president of the court shall issue execution, or executions, for the collection of such fines and penalties, and deliver the same to the sheriff of the county, and such sheriff shall forthwith levy on the goods and chattels of the delinquent, and in addition to such fine, shall collect the necessary costs of such proceedings, as provided in civil cases; on failure within twenty-four hours from the time of delivery of said execution and costs into his hands, to satisfy said execution from the goods and chattels of the delinquent, the sheriff shall forthwith take the body of the delinquent to the county jail and therein confine him to serve the execution at the space and rate of one day's confinement for each two dollars of fine and the costs; *provided, however,* that the delinquent may furnish a bond with good and sufficient surety to the sheriff to stay said execution and costs for a period of thirty days, either before confinement, or during confinement; and if at the expiration of said thirty days the said delinquent fails to pay the execution and costs, the said sheriff may apprehend the delinquent and confine him in said county jail, as in the original proceeding; and if the accused be not found, the sureties on said bond shall be liable to the state of West Virginia for the amount of said execution and the costs thereof.

The sheriff shall be entitled to a commission of five per cent on the amount of the fines and penalties for the collection thereof; a fee of one dollar for making a levy on the goods and chattels of the delinquent; and in case of making an arrest, a fee of sixty cents for making said arrest.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 12

(Senate Bill No. 68—By Mr. White)

AN ACT to amend and re-enact section forty, chapter forty-three, of the code of West Virginia of one thousand nine hundred

and twenty-three, and to repeal section forty-one of said chapter.

[Passed April 20, 1925; in effect from passage. Approved by the Governor.]

Sec. 40. Transportation of penitentiary convicts for road work; contracts between board of control and road commission or county courts for	convict road work; expense of transportation; wages of prisoners; clothing; food; quarters; guards and supplies; repealing acts in conflict herewith.
--	---

Be it enacted by the Legislature of West Virginia:

Section forty, chapter forty-three of the code of West Virginia of one thousand nine hundred and twenty-three, is hereby amended and re-enacted, so as to read as follows:

Section 40. All penitentiary convicts employed on state or county-district roads under contract with the state board of control shall be transported from and to the penitentiary under the direction of the warden thereof. Such prisoners may be transported anywhere in the state for road work. The contracts between the state board of control and the state road commission or county courts for convict road work may provide for payment, out of the state or county road fund, of the expenses of the transportation and wages of prisoners engaged in road work and for the maintenance thereof, and clothing, food, quarters, guards and supplies thereof.

Section forty-one of chapter forty-three of the code of one thousand nine hundred and twenty-three is hereby repealed.

CHAPTER 13

(House Bill No. 173—By Mr. McCrum)

AN ACT authorizing the issuance and sale of not exceeding twenty million dollars of bonds of the state of West Virginia to raise money for road construction purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred and twenty; and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-annually the interest on said bonds and the principal thereof within twenty-five years, the same being an emergency measure.

[Passed January 27, 1925; in effect from passage. Approved by the Governor.]

- | | |
|---|--|
| <p>Sec.
1. Road bonds authorized.
2. Same; date; when due; denomination; how registered bonds transferred; where and when payable; interest rate; how principal and interest payable; exempt from taxation.
3. Same; form of.
4. Coupons, form of.
5. Coupons and registered bonds separately listed.</p> | <p>Sec.
6. Moneys from levies paid into state road sinking fund; fines, forfeitures and penalties; state treasurer to keep separate account; funds applied, how.
7. Levy authorized by board of public works.
8. Governor to sell bonds.
9. Plates property of state.
10. Expenses, how paid.
11. Auditor the custodian.</p> |
|---|--|

Be it enacted by the Legislature of West Virginia:

Section 1. That bonds of the state of West Virginia of the 2 par value of twenty million dollars are hereby authorized to 3 be issued and sold for the purpose of securing the early letting 4 of contracts and of raising funds to build, construct and 5 maintain a system of state roads and highways in the 6 state of West Virginia, as authorized by the "Good Roads 7 Amendment" to the constitution of said state adopted at 8 the general election held in November, one thousand nine hun- 9 dred and twenty.

Sec. 2. Said bonds shall be dated January first, one thous- 2 and nine hundred and twenty-five, and shall become due and 3 payable serially in equal amounts beginning January first, one 4 thousand nine hundred and thirty-one, and ending January first, 5 one thousand nine hundred and fifty, and may be coupon or 6 registered and in such denominations as the governor may 7 determine.

8 The auditor and treasurer are authorized to arrange for 9 the transfer of registered bonds and for each such transfer a 10 fee of fifty cents shall be charged by and paid to the state of 11 West Virginia to the credit of the "state road sinking fund." 12 Bonds taken in exchange shall be cancelled by the auditor and 13 treasurer and be carefully preserved by the treasurer.

14 All of such bonds shall be payable at the office of the treas- 15 urer of the state of West Virginia, or at the option of the holder 16 of said bonds, at some designated bank in the city of New 17 York, to be designated by the governor. Said bonds shall be 18 interest bearing at the rate of not exceeding four and one- 19 half per centum per annum and the said interest shall be pay- 20 able semi-annually on the first day of January and July of 21 each year to bearer at the office of the treasurer of the state 22 of West Virginia, at the capitol of said state, or, at the op- 23 tion of the holder, at some designated bank in New York city,

24 to be designated by the governor, upon presentation and sur-
 25 render of the interest coupons representing interest then due,
 26 in the case of the coupon bonds. In the case of registered
 27 bonds the treasurer of the state of West Virginia shall issue his
 28 check for the payment of interest on the first day of January
 29 and July of each year for the amount of registered bonds out-
 30 standing as shown by the records of his office.

31 Both the principal and interest of said bonds shall be pay-
 32 able in gold coin of the United States of the present standard
 33 of weight and fineness. All said bonds shall be exempt from
 34 taxation by the state of West Virginia, or by any county, dis-
 35 trict, or municipality thereof, which fact shall appear on the
 36 face of the bonds as part of the contract with the holder
 37 thereof.

Sec. 3. Said bonds and coupons shall be engraved and
 2 the bonds shall be signed, on behalf of the state of West Vir-
 3 ginia, by the treasurer thereof, under the great seal of the
 4 state, and countersigned by the auditor, and shall be in the
 5 following form or to the following effect, as near as may be,
 6 namely:

7
 8 **COUPON GOLD BOND**
 9 **(OR REGISTERED GOLD BOND, AS THE CASE MAY BE)**
 10 **OF THE**
 11 **STATE OF WEST VIRGINIA.**

11 \$..... No.....
 12 The state of West Virginia, under and by virtue of authority
 13 of an act of its legislature passed at a regular session of one
 14 thousand nine hundred and twenty-five on the.....day of
 15, one thousand nine hundred and
 16 twenty-five and approved by the governor on the.....day
 17 of....., one thousand nine hundred
 18 and twenty-five, reference to which is hereby made as fully and
 19 at length as if set forth herein, acknowledges itself to be in-
 20 debted to, and hereby promises to pay to the bearer hereof
 21 (in the case of a coupon bond) or to....., or
 22 assigns, (the owner of record, in case of registered bonds)
 23years after the date of this bond, to-wit, on the...
 24 day of....., 19...., in gold coin of
 25 the United States of America of the present standard of weight
 26 and fineness, at the office of the treasurer of the state of West
 27 Virginia, at the capitol of said state, or at the option of the

28 holder at.....bank in the city
 29 of New York the sum of.....
 30 dollars, with interest thereon at.....per
 31 centum per annum from date, payable semi-annually in gold
 32 coin of the United States of America, at the treasurer's office
 33 or bank aforesaid, on the first day of January and the first day
 34 of July of each year, (and in the case of coupon bonds) ac-
 35 cording to the tenor of the annexed coupons, bearing the en-
 36 graved fac-simile signature of the treasurer of the state of
 37 West Virginia.

38 To secure the payment of this bond, principal sum and in-
 39 terest, when other funds and revenues sufficient are not avail-
 40 able for that purpose, it is agreed that the board of public
 41 works of the state of West Virginia shall annually cause to be
 42 levied and collected an annual state tax on all property in the
 43 state, until said bond is fully paid, sufficient to pay the annual
 44 interest on said bonds and the principal sum thereof within
 45 the time this bond becomes due and payable.

46 This bond is hereby made exempt from any taxation by the
 47 state of West Virginia, or by any county, district or munici-
 48 pal corporation thereof.

49 In testimony whereof, witness the signature of.....
 50, treasurer of the state of West Virginia,
 51 and the counter signature of.....
 52 auditor of said state hereto affixed according to law, dated the
 53day of.....one thousand nine hundred
 54 and....., and the seal of the state of West Virginia.

55 (Seal)
 56
 57 Treasurer of the state of West Virginia.

57 Countersigned:
 58
 59 Auditor of the state of West Virginia.

Sec. 4. The form of coupons shall be substantially as fol-
 2 lows, to-wit:

3 STATE OF WEST VIRGINIA
 4 Bond No..... Coupon No.....
 5 On the first day of....., 19...., the state
 6 of West Virginia will pay to the bearer, in gold coin of the
 7 United States of the present standard of weight and fineness,
 8 at the office of the treasurer of the state, or at the option of the
 9 holder at..... in New

10 York city, the sum of.....dollars
 11 the same being semi-annual interest on Bond No.....
 12 series of one thousand nine hundred and twenty.....

13

14 Treasurer of the state of West Va.

15 The signature of the treasurer to said coupons shall be by his
 16 engraved fac-simile signature, and each coupon shall be im-
 17 pressed on the back with its number in order of maturity from
 18 number one consecutively. Said bonds and coupons may be
 19 signed by the present treasurer and auditor, or by any of their
 20 respective successors in office; but no change in such signature
 21 shall be necessary by reason of any change of said officers.

Sec. 5. All coupons and registered bonds issued under this
 2 act shall be separately listed by the auditor of the state in
 3 books provided for the purpose, in each case giving the date,
 4 number, character and amount of obligations issued, and, in
 5 case of registered bonds, the name of persons, firm, or cor-
 6 poration to whom issued.

Sec. 6. Into the state road sinking fund shall be paid all
 2 moneys received from the annual state tax levy on the taxable
 3 property in the state levied under the provisions of this act,
 4 from any and all appropriations made by the state from other
 5 sources for the purposes of paying the interest on said bonds
 6 or paying off and retiring same, from fines, forfeitures and
 7 penalties, if any made applicable by law for the payment of said
 8 bonds or the interest thereon, from transfer fees as herein pro-
 9 vided, and from any source whatsoever, which is made liable
 10 by law for the payment of the principal of said bonds or the in-
 11 terest thereon.

12 All such funds shall be kept by the treasurer in a separate
 13 account, under the designation aforesaid, and all money belong-
 14 ing to said fund shall be deposited in the state treasury to
 15 the credit thereof.

16 Said fund shall be applied by the treasurer of the state,
 17 first to the payment of the semi-annual interest on said bonds
 18 as it shall become due as herein provided. The remainder of
 19 said fund shall be turned over by the state treasurer to the
 20 state sinking fund commission, whose duty it shall be to in-
 21 vest the same in the bonds of the government of the United
 22 States, the bonds of the state of West Virginia, or any pol-
 23 itical sub-division thereof; *provided, however,* that bonds so

24 purchased by the said state sinking fund commission shall
25 mature so as to provide sufficient money to pay off all bonds
26 herein provided to be issued as they may become due; and the
27 money so paid into the said state road sinking fund under the
28 provisions of this act shall be expended for the purpose of
29 paying the interest and principal of the bonds hereby provided
30 for, and for no other purpose except that said fund may be
31 invested until needed, as herein provided.

Sec. 7. In order to provide the revenue necessary for the
2 payment of the principal and interest of said bonds, as here-
3 inbefore provided, the board of public works is authorized,
4 empowered and directed to lay annually a tax upon all real
5 and personal property subject to taxation within this state,
6 sufficient to pay interest on said bonds accruing during the
7 current year and one-twenty-fifth of the total issue (at par
8 value) of said bonds, for such number of years, not exceeding
9 twenty-five, as may be necessary to pay the interest thereon
10 and to pay off the principal sum of said bonds; and said taxes,
11 when so collected, shall not be liable for or applicable to any
12 other purpose.

13 *Provided, however,* if there be other funds in the state
14 treasury, or in the state road fund, in any fiscal year, not
15 otherwise appropriated, or if other sources of revenue be here-
16 after provided by law for the purpose, the board of public
17 works is authorized, empowered and directed to set apart, in
18 any year there be such funds, or other sources of revenue pro-
19 vided for such purpose, a sum sufficient to pay the interest on
20 bonds accruing during the current year, and to pay off and
21 retire the principal of said bonds, or any part thereof, at
22 maturity.

23 The authority hereby vested in the board of public works
24 shall be in addition to the authority now vested in it by present
25 law.

Sec. 8. The governor shall sell all bonds herein mentioned
2 at such time or times as he may determine necessary to pro-
3 vide funds for road construction purposes, as herein provided,
4 upon recommendation of the state road commission. All sales
5 shall be at not less than par and accrued interest. *Provided,*
6 That not more than five million dollars of said bonds shall be
7 sold prior to March fifteenth, one thousand nine hundred and
8 twenty-five. Registered bonds shall bear interest only from the
9 date of delivery.

Sec. 9. The plates from which the bonds, authorized by this act are printed shall be the property of the state of West Virginia.

Sec. 10. All necessary expenses incurred in the execution of this act shall be paid out of any money in the treasury of the state of West Virginia, belonging to the state road fund on warrants of the auditor of the state drawn on the state treasurer.

Sec. 11. The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

CHAPTER 14

(House Bill No. 281—By Mr. Bayer)

AN ACT to protect the title of motor vehicles within this state; to provide for the issuance of certificates of title and evidence of registration thereof; to regulate purchase and sale or other transfer of ownership; to provide that registration of certificates of title shall be notice to subsequent purchasers; to facilitate the recovery of motor vehicles stolen or otherwise unlawfully taken; to prescribe the powers and duties of the state road commission; to provide penalties for violations of the provisions thereof; to regulate the purchase, sale, storage and repair of motor vehicles; declaring the theft of motor vehicles, within the purview of this act to be a misdemeanor, and to repeal all acts or parts of acts in conflict herewith.

[Passed April 23, 1925. In effect 90 days from passage. Became a law without the approval of the Governor.]

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|--|--|
| <p>Sec. 1. Certificate of title for motor vehicle: blank form, what it shall contain; charge for original certificate: good for life of car; duty state road commission.</p> <p>2. In event of sale may assign certificate; charge therefor.</p> <p>3. Certificate of title before operating car: penalty for non-compliance.</p> <p>4. Certificate withheld, when; revoked, when.</p> <p>5. False statement, penalty for.</p> <p>6. Dealer's vendor or dealer certificate required.</p> <p>7. Duplicate for losses.</p> | <p>Sec. 8. Altering or forging punishable; penalty.</p> <p>9. Duties of officers and state road commission in matters of stolen or recovered motor vehicles.</p> <p>10. Dealer to keep record; what record to set forth; must have assigned certificate.</p> <p>11. Destroyed engine numbers, how replaced; penalty for selling vehicle with destroyed number.</p> <p>12. False affidavit, perjury; penalty.</p> <p>13. Invalid item shall not invalidate law; inconsistent laws repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

Certificate of Title for Motor Vehicle

Section 1. After August thirty-first, one thousand nine hundred and twenty-five, certificates of registration of any vehicle or

3 number plates therefor, whether original issues or duplicates,
4 shall not be issued or furnished by the state road commission or
5 any other officer charged with such duty, unless the applicant
6 therefor shall at the same time make application for and be
7 granted an official certificate of title of such motor vehicle. Said
8 application shall be upon a blank form to be furnished by the
9 state road commission and shall contain a full description of the
10 motor vehicle, which said description shall contain the manu-
11 facturer's number, the motor number and any distinguishing
12 marks, together with a statement of the applicant's title and of
13 any liens or encumbrances upon said motor vehicles, and the
14 named and address of the holder of said lien and such other
15 information as the state road commission may require. The
16 said application shall be signed and sworn to by the applicant.
17 The state road commissioner or such other officer charged with
18 such duty by said commission, if satisfied that the applicant is
19 the owner of such vehicle, or otherwise entitled to have the
20 same registered in his name, shall thereupon issue to the appli-
21 cant an appropriate certificate of title over the signature of the
22 official designated by the commission, authenticated by a seal
23 to be procured and used for such purpose. Such certificates
24 shall be numbered consecutively, beginning with number one,
25 and shall contain such description and other evidence of identi-
26 fication of said motor vehicle as the state road commission may
27 deem proper. The charge for each original certificate of title
28 so issued shall be one dollar.

29 Said certificate shall be good for the life of the car so long
30 as the same is owned or held by the original holder of such
31 certificate, and need not be renewed annually, or at any other
32 time except as herein provided. Within ninety days after the
33 passage of this act, it shall be the duty of the state road com-
34 mission to cause to be printed copies of this act and to mail to
35 every person to whom the state road commission or other officer
36 having the duty of registration of motor vehicles has issued a
37 certificate of registration for the year one thousand nine hun-
38 dred and twenty-five, one of such printed copies, accompanied
39 by a blank form of application for a certificate of title.

Sec. 2. In the event of the sale or other transfer in this state
2 after January first, one thousand nine hundred and twenty-
3 six, of the ownership of a motor vehicle for which a certificate

4 of title has been issued as aforesaid, the holder of such certificate
5 shall endorse on the back of the same an assignment thereof
6 with warranty of title in form printed thereon, with a state-
7 ment of all liens or encumbrances on said motor vehicle, and
8 deliver the same to the purchaser or transferee at the time of
9 the delivery to him of such motor vehicle. The purchaser or
10 transferee shall, within ten days thereafter, present such cer-
11 tificate assigned as aforesaid to the state road commission, ac-
12 companied by a fee of one dollar, whereupon a new certificate of
13 title shall be issued to the assignee.

Sec. 3. The owner or any person without the consent of the
2 owner being first obtained, who shall operate a motor vehicle
3 in this state under a registration number of this state after
4 January first, one thousand nine hundred and twenty-six, with-
5 out first procuring a certificate of title, as herein provided, shall
6 be guilty of a misdemeanor and upon conviction thereof, shall
7 be punished by a fine of not less than twenty-five dollars, nor
8 more than one thousand dollars, and from and after January
9 first, one thousand nine hundred and twenty-six, any person who
10 sells a motor vehicle without complying with the requirements
11 of section three hereof, shall upon conviction thereof, be punish-
12 ed by a fine of not less than fifty dollars, nor more than three
13 hundred dollars and by imprisonment in the county jail not
14 exceeding one year.

Sec. 4. If the state road commission shall determine at any
2 time that an applicant for a certificate of title of a motor vehicle
3 is not entitled thereto, it may refuse to issue such certificate or
4 to register such vehicle, and may for a like reason, and after
5 notice and hearing, revoke registration already acquired, or any
6 outstanding certificate of title. Said notice shall be served in
7 person or by registered mail.

Sec. 5. Any person who shall knowingly make any false
2 statement of a material fact, either in his application for a
3 certificate of title herein provided for, or in any assignment
4 thereof, or who, with intent to procure or pass title to a motor
5 vehicle which he knows, or has reason to believe, has been
6 stolen, shall receive or transfer possession of the same from or
7 to another, or who shall have in his possession any motor vehicle
8 which he knows, or has reason to believe, has been stolen, and
9 who is not an officer of the law engaged at the time in the per-

10 formance of his duty as such officer, shall be punished by a fine
11 of not less than one hundred dollars nor more than three hun-
12 dred dollars and by imprisonment in the county jail not ex-
13 ceeding one year. This provision shall not be exclusive of any
14 other penalties prescribed by any existing or future laws for
15 the larceny or unauthorized taking of motor vehicles but shall
16 be deemed supplementary thereto.

Sec. 6. In the case of dealers in motor vehicles, motorcycles,
2 including manufacturers who sell to others than dealers, all of
3 whom are intended to be covered by this and all other provisions
4 of this section, a separate certificate of title either of such deal-
5 er's immediate vendor, or of the dealer himself, shall be re-
6 quired in the case of each motor vehicle in his possession, and
7 the state road commission shall determine the form in which ap-
8 plication for such certificate of title and assignments shall be
9 made; *provided, however*, that no such certificate shall be re-
10 quired in the case of new motor vehicles sold by manufacturers
11 or dealers.

Sec. 7. In the case of lost certificate of title or registration,
2 the loss of which is accounted for to the satisfaction of the state
3 road commission, duplicates may be issued, the charge therefor
4 to be one dollar each.

Sec. 8. Any person who shall alter or forge or cause to be
2 altered or forged, any certificate of title issued by the state
3 road commission pursuant to the provisions of this section,
4 or any assignment thereof, or who shall hold or use any such
5 certificate of title or assignment knowing the same to have
6 been altered or forged, shall be deemed guilty of a misdemeanor,
7 and upon conviction thereof shall be liable to pay a fine of not
8 less than one hundred dollars nor more than five hundred dollars
9 and by imprisonment in the county jail not to exceed one year.

Sec. 9. It shall be the duty of the sheriff of every county
2 of this state and of the chief of police of every city to make im-
3 mediate report to the state road commission of all motor vehicles
4 reported to him as stolen or recovered, upon forms provided by
5 the state road commission. Upon receipt of such information
6 the state road commission shall file the same in an index to be
7 known as the "stolen and recovered motor vehicle in-
8 dex." It shall also be the duty of the state road
9 commission to file reports of stolen and recovered mo-

10 tor vehicles reported to it from other states. The
11 state road commission shall publish once a month a
12 list of all motor vehicles stolen or recovered during the previ-
13 ous month and forward a copy of the same to every sheriff and
14 all police departments in cities of this state with over five thou-
15 sand inhabitants. Such list shall also be forwarded to the state
16 police department or other proper official in each state of the
17 United States. Before issuing a certificate of title as hereto-
18 fore provided, the state road commission shall check the motor
19 and serial number on the motor vehicle to be registered against
20 the "stolen and recovered motor vehicle index."

Sec. 10. Any person conducting the business of buying,
2 selling or dealing in used vehicles and having received a license
3 therefor, shall keep a book of record in such form as may be
4 prescribed or approved by the state road commission in which
5 he shall keep a record of the purchase, sale or exchange or re-
6 ceipt for the purpose of sale or exchange of any second-hand
7 vehicle, a description of such vehicles, together with the name
8 and address of the seller, of the purchaser and of the alleged
9 owner or other person from whom such vehicle was purchased
10 or received, or to whom it was sold or delivered, as the case
11 may be. Such description shall also include the engine num-
12 ber, if any, the maker's number, if any, chassis number, if any,
13 and such other numbers or identification marks as may be there-
14 on and shall also include a statement that a number has been
15 obliterated, defaced or changed, if such is the fact. He shall also
16 have in his possession a duly assigned certificate of title from
17 the owner of said motor vehicle in accordance with the provi-
18 sions of another section of this act, from the time when the
19 motor vehicle is delivered to him until it has been disposed of
20 by him. *Provided*, that any dealer who purchases a used motor
21 vehicle for the purpose of disassembling it and reselling the
22 parts, or who after purchase wishes to disassemble such vehicle
23 and resell its parts, shall report same to the state road com-
24 mission, and receive authority from them to disassemble such
25 vehicle before taking such action. Any person guilty of violat-
26 ing any of the provisions of this section shall be deemed guilty of
27 a misdemeanor and shall be punished by a fine of not less than
28 fifty dollars nor more than three hundred dollars and be con-
29 fined in the county jail not to exceed one year.

Sec. 11. Any person or persons, firm or corporation, who 2 thirty days after the taking effect of this act, shall sell or offer 3 for sale in this state, a motor vehicle, the original engine num- 4 ber of which has been destroyed, removed, altered, covered or 5 defaced, with the exception of electrically propelled motor ve- 6 hicles, shall be deemed guilty of a misdemeanor, and upon con- 7 viction thereof shall be punished by a fine of not less than two 8 hundred dollars, nor more than five hundred dollars, and by 9 imprisonment in the county jail for a term of not less than 10 thirty days nor more than one hundred and eighty days, and 11 upon a second or subsequent conviction under this section, the 12 conviction shall be for a felony and the punishment 12-a shall be imprisonment in the penitentiary for a term 13 of not less than one year nor more than five years; *pro-* 14 *vided, however,* that any person or persons, firm or corporation, 15 being the owner or custodian of or having possession of a motor 16 vehicle at the time of the taking effect of this act, the original 17 engine number of which has been previously destroyed, removed, 18 altered or defaced, shall before the expiration of thirty days 19 after the taking effect of this act, apply to the state road com- 20 mission on a blank to be prepared and furnished by the state 21 road commission upon request, for permission to make or stamp, 22 or cause to be made or stamped on the engine of such motor 23 vehicle, a special engine number. The application for permis- 24 sion to make or stamp a special engine number on the engine 25 of a motor vehicle under the provisions of this act shall con- 26 tain a description of such motor vehicle including the make, 27 style and year of model of the same, as complete a description of 28 the original engine number, if any part of the same remains, as 29 is possible to give; any distinguishing marks that may be on 30 the engine or body of such motor vehicle and the name and 31 postoffice address of the applicant, the date on which he pur- 32 chased or procured possession of the same, the name and post- 33 office address of the person or persons from whom he purchased 34 such motor vehicle, and such information as the state road com- 35 mission may require, all of which description and facts shall 36 be sworn to by said applicant. Upon receipt of such application 37 together with a fee of one dollar, the state road commission shall 38 issue to said applicant written permission to make or stamp on 39 the engine of such motor vehicle a special engine number. to be

40 designated by the state road commission, and when such spe-
41 cial engine number so designated has been stamped or other-
42 wise placed on the engine of such motor vehicle, it shall be
43 come and thereafter be the lawful engine number of such motor
44 vehicle for the purpose of identification and registration and
45 for all other purposes under the provisions of this act, and the
46 owner thereof may sell or transfer the same under said special
47 engine number so designated by the state road commission and
48 any person or persons who shall destroy, remove, cover, alter or
49 deface any special engine number so designated by the state
50 road commission shall be deemed guilty of a misdemeanor and
51 upon conviction thereof shall be punished by imprisonment in
52 the county jail for a period not exceeding one year.
53 In designating special engine numbers for motor ve-
54 hicles under the provisions of this act the state road com-
55 mission shall designate and number the same consecutively, be-
56 ginning with the number (1) preceded by the letters "W. Va."
57 and followed by the letters for each and every make of motor
58 vehicle for which application for a special engine number shall
59 be made, and in the order of the filing of application therefor;
60 *provided*, that from and after the taking effect of this act the
61 state road commission shall not register any motor vehicle with-
62 out an engine number or issue a license for the operation of the
63 same except as specifically provided for herein; and, *provided*,
64 *further*, before issuing said license the state road commission
65 shall require of the applicant a statement that the special num-
66 ber assigned to be placed on the particular motor vehicle in
67 question has been put on in a workmanlike manner, and this
68 statement be certified to by the sheriff, chief of police or other
69 convenient peace officer, and that he has inspected said motor ve-
70 hicle and found said number to be on said motor vehicle as
71 required by the state road commission. Nothing herein shall
72 be construed to prevent any manufacturer or their agents, other
73 than dealers, from doing his own numbering on motor vehicles
74 or parts removed or changed and replacing the numbered parts.

Sec. 12. Any person who shall make any false affidavit, or
2 shall knowingly swear or affirm falsely, to any matter or thing
3 required by the terms of this act to be sworn or affirmed to
4 shall be guilty of perjury, and upon conviction shall be pun-

5 ished by fine and imprisonment as other persons committing
6 perjury are punishable.

Sec. 13. If any provision of this act shall be held by any
2 court of competent jurisdiction to be unconstitutional such pro-
3 vision so declared to be unconstitutional shall not affect the
4 validity of the remainder of the act, but shall only affect the
5 clause or provision so held to be unconstitutional and the re-
6 mainder of the act shall be valid.

7 All acts and parts of acts in conflict herewith are hereby
8 repealed.

CHAPTER 15

(House Bill No. 352—By Mr. Smith, of Berkeley)

AN ACT to provide for the separation of grades of steam, electric
or interurban railroads, with public roads, streets and alleys in
the state.

[Passed April 20, 1925; in effect 90 days from passage. Became a law without the
approval of the Governor.]

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| <p>Sec.
1. State road commission, county courts, councils, powers and jurisdiction in matter of separation of grades.
2. Same; may order such separation.
3. Railroad company may protest; may appeal from such findings to supreme court.
4. Railroad company shall present plans.
5. Work let to lowest bidder; com-</p> | <p>Sec.
6. Completed with diligence.
7. Cost of plans borne equally.
8. Railroad company may itself do the work.
9. Payment upon estimates; commission, county or municipality shall pay its share.
10. Railroad company shall care for maintenance on right of way; inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That the state road commission, the several county courts and the several councils of municipal corporations be given jurisdiction relating to the separation of grades of steam, electric or interurban railroads, with public roads, streets and alleys in the state.

Section 1. The state road commission, the county courts
2 or councils of the municipal corporations of the state of West
3 Virginia shall have the jurisdiction and the power, whenever
4 in the judgment of any of them it is necessary for the safety
5 of the traveling public so to do, to order any railroad company,
6 either steam or electric, owning or operating a railroad in this
7 state, to separate the grades or re-locate a road where any
8 public road or any public street or alley in any municipality
9 of the state crosses at grade the railroad tracks of such rail-

10 road company, and shall have the power to determine the
11 location of the crossing or road to be substituted, the grade
12 thereof, and whether it shall pass over or under the railroad
13 track or tracks, and also the power to re-locate any road or
14 street so that grade crossings may be eliminated.

Sec. 2. Whenever in the judgment of the state road com-
2 mission, the several county courts, or the several councils of
3 the municipal corporations of this state it is necessary for the
4 safety of the traveling public that the grades of a railroad and
5 any public road or public street or alley in any municipality
6 should be separated or a road re-located for that purpose; the
7 state road commission, the said county courts, or the
7-a said municipal corporations, as the case may be, shall
7-b make a proper order to that effect and furnish a
8 copy thereof by registered mail, to the president or at-
9 torney of record of the railroad affected by such order.
10 Said order shall specify the location of the crossing or road to
11 be substituted, the grade thereof, and whether it shall pass
12 over or under the railroad tracks of the railroad company
13 affected by said order and also the width of the crossing ordered
14 to be constructed and the angle at which said crossing so con-
15 structed shall meet and converge into the road bed on either
16 side of the railway tracks.

Sec. 3. Any railroad company dissatisfied with the order of
2 the state road commission, county court or municipal corpora-
3 tion, as the case may be, directing the separation or elimina-
3a tion of grades at any point, as hereinafter provided, may
4 within thirty days after the receipt by the president or attorney
5 of record of said railroad company of a copy of the order
6 directing the separation or elimination of said grades, file with
7 said state road commission a protest giving the reasons of said
8 railroad why said order should not be enforced. On the filing
9 of said protest, the state road commission shall set down for
10 hearing, the matter in issue. On the hearing of said protest
11 the state road commission shall hear all evidence which may be
12 offered by any party upon the reasonableness of the separation
13 or elimination of the grades, and if the commission, from the
14 evidence, shall find that the construction of the work is neces-
15 sary, it shall enter an order to that effect, and direct that the
16 work shall be proceeded with in accordance with this statute.
17 Any party affected by said order may appeal from the findings

18 of the road commission to the supreme court of appeals of
19 West Virginia in the same manner as appeals are now taken
20 from the public service commission of West Virginia, as pro-
21 vided in section sixteen, of chapter fifteen-o of the code of
22 West Virginia; but in all such appeals the record must be
23 filed in the office of the clerk of the supreme court of appeals
24 not later than sixty days after the entry of the final order by
25 the road commission. All cases appealed under this act to the
26 supreme court of appeals shall be immediately docketed, and
27 the appellant shall file its brief within fifteen days after said
28 appeal is docketed, and the appellee shall file its brief within
29 fifteen days thereafter. Thereupon the case shall be advanced
30 and submitted.

Sec. 4. Within sixty days after the entry of any order by
2 the state road commission, the county court or municipal cor-
3 poration, as the case may be, directing a separation or elimina-
4 tion of grades at any point, as herein provided, unless an
5 appeal be taken from such order, and in case of such appeal,
6 within ninety days after the final disposition thereof, the rail-
7 road company affected by such order shall in the case of a
8 separation of grades prepare and present to the state road
9 commission for its approval, plans, specifications and estimates
10 of cost for the elimination of said crossing ordered to be con-
11 structed by the state road commission, including plans, specifi-
12 cations and estimates of cost of the necessary approaches
13 thereto.

Sec. 5. Upon the approval of the said plans and specifica-
2 tions by the state road commission, the county court or the
3 municipal corporation, as the case may be, the railroad company
3a affected shall secure sealed bids for the construction of said
4 work, and within thirty days after the approval of said plans,
5 shall receive and open said bids after having notified the said
6 road commission five days in advance of the day on which such
7 bids shall be opened. The work shall be let to the lowest
8 responsible bidder, subject to the provisions hereinafter con-
9 tained. The successful bidder shall be required to prosecute
10 the work to completion with reasonable diligence.

Sec. 6. The cost of preparing the plans, specifications and
2 estimates of cost and securing bids and of the work of separat-
3 ing the grades shall be borne equally by the railroad company

4 and the state road commission, the county or the municipality
5 as the case may be.

Sec. 7. The state road commission, the county court or the
2 municipal corporation, as the case may be, shall have the
3 authority to order the rejection of any or all bids submitted
4 for the construction of any work ordered to be done under the
5 provisions of this act, and the railroad company shall secure
6 new bids. The state road commission, the county court, the
7 municipal corporation or the railroad company affected shall
8 have the power to reject any and all bids, and elect to do the
9 work itself, in which event there shall not be charged to the
10 railroad company or to the state road commission, county or
11 municipality, as the case may be, any sum in excess of that
12 it would have been required to pay had the contract been let
13 to the lowest responsible bidder.

Sec. 8. In all cases the state road commission, county or
2 municipality shall, as the work progresses, pay to the railroad
3 company affected, its share of the cost of such work as herein
4 provided, which payment shall be made upon estimates fur-
5 nished by the chief engineer of said railroad company. The
6 state road commission, county or municipality, shall have the
7 right to furnish an engineer, at its expense, who shall act in
8 co-operation with the engineering department of the railroad
9 company affected in supervision of said work.

Sec. 9. All that part of the work constructed under this act,
2 lying within the right of way of the railroad company, after the
3 construction of same, shall be maintained at the expense of the
4 railroad company, except that the railroad company shall not be
5 required to keep up the surface of the roadbed of said roadway,
6 street or alley.

All acts or parts of acts in conflict herewith are hereby re-
pealed.

CHAPTER 16

(House Bill No. 374—By Mr. Trainer)

AN ACT to regulate the use of emblems of motor vehicle clubs and
similar organizations, and providing penalties for the viola-
tion of this act.

[Passed April 15, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Unlawful to display unauthorized
insignia; penalty.

Be it enacted by the Legislature of West Virginia:

That it shall be unlawful to display upon a motor vehicle any emblem or insignia of a motor vehicle club, etc., unless authorized by such club's by-laws.

Section 1. It shall be unlawful for any person to display upon a motor vehicle in this state the insignia or emblem of any motor vehicle club or similar organization, unless he shall be entitled to use the same under the constitution, by-laws, rules or regulations of such club or organization.

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten nor more than fifty dollars.

CHAPTER 17

(House Bill No. 606—By Mr. McCrum)

AN ACT to amend and re-enact sections ten, twenty-three, forty, forty-eight, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, seventy-five, seventy-six, seventy-seven, eighty, eighty-one, eighty-two, eighty-three, eighty-seven, ninety-five and one hundred and eighty-five; and to repeal section forty-one of chapter one hundred and twelve of the acts of the legislature of one thousand nine hundred and twenty-one, as amended and re-enacted by chapter five and six of the acts of the legislature of one thousand nine hundred and twenty-three; and to add thereto a new section to be known as one hundred and three (a), relating to roads.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.	10. State road commission, duties, road plan of state; statistics; methods of construction; standards.	Sec.	guard; statement of party in charge of camp.
23.	State road fund; method of distribution.	53.	Same: certificate and form of commitment.
40.	Penitentiary convicts, transportation of; contracts may provide for maintenance; section forty-four, acts one thousand nine hundred and twenty-three repealed.	54.	Persons charged with misdemeanor may elect to work on roads; credit for such labor.
48.	County prisoners; labor on county-district roads; regulations governing work of on streets.	55.	County prisoners; sentence reduced for good behavior.
50.	Same: when road labor omitted from sentence.	75.	Vehicle laws; administration; definitions.
51.	Same: penalty for escape.	76.	Licenses required; how obtained.
52.	Same: how guarded; wages of	77.	Registration of vehicles; number plates and tags; county issuance of.
		80.	National government, state and subdivisions exempted.

Sec. 81. Separate application for each vehicle; certificate to be carried on vehicle; form of plates; penalties. 82. Schedule of fees for vehicles, dealers, etc. 83. Calendar year rate; pro rate for certain portions; certificate void, when; fraudulent obtaining, how	Sec. punished. 87. Registration plates to be displayed. 95. Speed limit for different classes; penalties. 103-a. Powers of county courts in obtaining materials; other powers. 185. Obstructions, definition of; inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

That sections ten, twenty-three, forty, forty-eight, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, seventy-five, seventy-six, seventy-seven, eighty, eighty-one, eighty-two, eighty-three, eighty-seven, ninety-five and one hundred and eighty-five of chapter one hundred and twelve of the acts of the legislature of one thousand nine hundred and twenty-one, as amended and re-enacted by chapters five and six of the acts of the legislature of one thousand nine hundred and twenty-three, be amended and re-enacted; that section forty-one of said acts be repealed, and that a new section to be known as one hundred and three (a) be added thereto as follows:

Section 10. The state road commission shall cause to be
 2 made and kept for its department, a general road or highway
 3 plan of the state; and compile statistics and collect information
 4 relative to the mileage, character and condition of the roads
 5 and highways in the counties and magisterial districts of the
 6 state. It shall investigate and determine upon the various
 7 methods of road construction best adapted to the various sec-
 8 tions of the state, and establish standards for the construction
 9 and maintenance of roads and highways in various sections,
 10 taking into consideration the topography of the country, the
 11 natural conditions, and the character and availability of road
 12 building material, and the ability of the counties and magis-
 13 terial districts to build and maintain roads under the pro-
 14 visions of this act. It may at all reasonable times be consulted
 15 by any county, magisterial district, city or incorporated town
 16 officers concerning county-district roads, highways, bridges
 17 and streets over which they have jurisdiction, respectively,
 18 and shall, when requested, advise and give information to such
 19 officers relative to the construction, repair, alteration and
 20 maintenance of such roads, highways and bridges. It shall,
 21 at all times, lend its aid in promoting road improvement
 22 throughout the state, and shall prepare and compile all useful
 23 information relative to road building and maintenance, and

24 shall disseminate such information by means of printed bul-
25 letins, or otherwise, issued at such times and in such numbers
26 as it may deem best.

27 The commission is authorized to make, or have made, photo-
28 static copies of any or all public records on file at the state
29 capitol of Virginia, at Richmond, which the commission may
30 deem necessary or proper in ascertaining the location of rights
31 of way of public roads located or established in what is now
32 the state of West Virginia, and a copy of any of said photo-
33 static copies so made, when certified by the secretary of the
34 commission, may be admitted as evidence in lieu of the original
35 in any of the courts of this state.

Sec. 23. On or before the first day of July, one thousand
2 nine hundred and twenty-one, and every two years thereafter,
3 the state road commission shall ascertain, fix and determine
4 the total amount of available funds for expenditure in the
5 whole state for the construction and reconstruction of state
6 roads and highways therein during each biennial period. Of
7 the amount so ascertained, fixed and determined, the commis-
8 sion may set aside as a "Reserve Fund" not to exceed twenty
9 per centum thereof to be used and expended by it in its discre-
10 tion in making desirable connections or economizing in construc-
11 tion; *provided*, that any moneys received from the federal
12 government, for road construction in this state, for the pur-
13 poses of such apportionment shall not be considered a part
14 of the state road fund to be apportioned among the counties
15 as aforesaid, but shall be added to and become a part of the
16 "Reserve Fund" so set aside, but the moneys so received from
17 the federal government shall be expended for construction only
18 on projects that have been or may hereafter be approved by
19 the proper representative of the federal government.

20 If, at the end of any biennial period, any money in said
21 reserve fund remains unexpended or unappropriated, it shall be
22 placed in the general funds for reserve and distribution during
23 the next biennial period. The remaining eighty per centum
24 of the funds so fixed and determined, shall be apportioned to
25 the various counties of the state for the construction and re-
26 construction of the state roads and highways therein in the
27 proportion that the mileage of Class A roads or routes in each
28 county, as heretofore designated and approved under existing

29 law, bears to the total Class A road mileage, as heretofore
30 designated and approved in the entire state. When the ap-
31 portionment aforesaid is made, work on construction and re-
32 construction in each county shall be commenced as soon there-
33 after as practicable, and prosecuted with all reasonable dis-
34 patch until apportioned funds are expended, or until the con-
35 struction, or reconstruction, of said roads therein is completed.
36 When all the state roads in any county shall have been con-
37 structed or reconstructed, and surfaced, then the allotment for
38 that county shall cease, and the mileage of state roads and
39 routes in such county or counties shall not thereafter be taken
40 into consideration in future apportionments until the state
41 roads in all the counties are constructed and surfaced, or until
42 further construction or reconstruction therein shall become
43 necessary or advisable.

Sec. 40. All penitentiary convicts employed on state or
2 county-district roads under contract with the state board of
3 control shall be transported from and to the penitentiary under
4 the direction of the warden thereof. Such prisoners may be
5 transported anywhere in the state for road work. The con-
6 tracts between the state board of control and the state road
7 commission or county courts for convict road work may pro-
8 vide for payment out of the state or county road fund, as
9 the case may be, of the expenses of the transportation and wages
10 of prisoners engaged in road work and for the maintenance
11 thereof, and clothing, food, quarters, guards and supplies
12 thereof.

13 Section forty-one of chapter one hundred and twelve of the
14 acts of one thousand nine hundred and twenty-one, as amended
15 by chapter six of the acts of one thousand nine hundred and
16 twenty-three, is hereby repealed.

Sec. 48. Whenever any able-bodied male person over the
2 age of sixteen years shall be convicted of an offense punishable
3 with confinement in the county jail, before any court or justice
4 of the peace and sentenced by such court or justice of the peace
5 to imprisonment in the county jail and to pay a fine and costs,
6 he shall be sentenced by such court or justice of the peace to
7 labor on the county-district roads of the county, or to labor in
8 quarries or elsewhere in the preparation of materials for county-
9 district roads, or both, under the direction of the county road
10 engineer, or other representative of the county court having such

11 work in charge, during the time of such imprisonment, and
12 until said fine and costs are satisfied. Whenever any person is
13 imprisoned by virtue of section ten, chapter thirty-six of the
14 code of West Virginia of one thousand nine hundred and sixteen
15 and fails to execute the bond therein provided, he shall be re-
16 quired to work on said roads, or in the preparation of road ma-
17 terials as aforesaid, or both, until said fine and costs are paid
18 under the regulations prescribed by this act; *provided*, that
19 said work shall not be required to be done on the streets or
20 alleys of any city, town or village which under its charter is
21 required to keep its own streets and alleys in order, unless the
22 corporate authority thereof shall first arrange with the county
23 authorities to pay for such work to the keeper of the jail or
24 said county the amount to which he shall be entitled for the
25 board of such prisoners.

Sec. 50. The court or justice of the peace before whom
2 any such prisoner is convicted, or imprisoned for good cause
3 appearing and entered of record may omit from the sentence
4 that part of the penalty requiring such person to work on the
5 public road of the county, or in the preparation of road
6 materials.

Sec. 51. Whenever any such person shall escape while work-
2 ing on such public road, or in the preparation of road materials,
3 or both, and be re-captured, he shall be taken by the officers
4 having him in custody before any justice of the peace in the
5 county where such escape was made, and such justice shall,
6 after a trial, and upon conviction for such escape, sentence
7 him to labor on the county-district roads of said county, or in
8 the preparation of road materials, or both, in addition to fine
9 and sentence imposed for his previous trial, not less than sixty
10 days, nor more than six months, and to pay the cost of making
11 the arrest, including all costs of trial; and, in default of pay-
12 ment, he shall sentence said prisoner to work out said costs
13 on said roads, or in the preparation of road materials, or both,
14 as herein provided.

Sec. 52. The sheriff, upon recommendation of the county
2 engineer, or other representative of the county court having
3 the work in charge, and with the approval of the county court,
4 shall employ a sufficient number of persons to guard such
5 prisoners, not to exceed one for every ten or less number of
6 prisoners so employed on such county roads, or in the prepara-

7 tion of road materials, and the wages of such guards shall be
 8 reasonable and shall be fixed by the county court and shall
 9 be paid out of the county treasury when allowed by the
 10 county court. Such guards when employed shall be subject
 11 to and under the direction of the county road engineer, or other
 12 representative of the county court having the work in charge.
 13 The keeper of the jail shall file with the clerk of the county
 14 court a monthly statement showing the number of prisoners
 15 in jail awaiting trial, the number of prisoners sentenced to
 16 work upon the public roads, or in the preparation of road
 17 materials, the number of days work performed, the number
 18 of days idle, and the reasons therefor. Whenever prisoners are
 19 worked from camps, or kept outside of the jail, the person in
 20 charge of the camp shall furnish the jailer with the informa-
 21 tion herein required, or file the same with the clerk of the
 22 county court, under the direction of the county road engineer,
 23 or another such representative of the court.

Sec. 53. The clerk of every court, or the justice of the peace
 2 before whom any person is convicted of an offense and sen-
 3 tenced to be confined in the county jail, or sentenced to pay
 4 a fine and is confined for non-payment thereof, shall certify
 5 to the jailer the length of sentence and the amount of time in
 6 the manner and form following:

7 "Commit by for imprisonment for
 8 sentence, fine and costs."

9 STATE OF WEST VIRGINIA, COUNTY OF.....ss.:
 10 To the sheriff or any constable of said county, and to the
 11 jailer of said county:

12 WHEREAS, was this day convicted of the
 13 crime of and was sentenced to confinement
 14 in the county jail for the period of days or
 15 months, from this date, and to pay the state a fine of \$.....,
 16 and costs incurred, amounting to the sum of \$.....
 17 itemized on the back hereof and to labor on the public roads,
 18 or in the preparation of road materials, in said county until
 19 said fine and costs are paid, as provided in chapter
 20 of the acts of the legislature of the said state for the year
 21

22 You, the said sheriff or constable, are hereby commanded in
 23 the name of the state forthwith to safely convey the said

24 and deliver him to the said jailer with this
 25 notice; and you,, the said jailer, are hereby
 26 commanded in the name of the said state, to receive and confine
 27 the said in said jail, and to see that the
 28 said labors according to law on the county-
 29 district roads, or in the preparation of road materials, or both,
 30 until such sentence, fine and costs have been satisfied, or until
 31 he is discharged according to law.

32 Given under my hand and seal this day of
 33, 19....

34

35
 Clerk of court or justice of peace.

Sec. 54. A person charged with a misdemeanor, who is
 2 unable to furnish a recognizance or bail bond with satisfactory
 3 sureties, according to law, may after being committed to jail,
 4 elect to labor on the county-district roads, or in the prepara-
 5 tion of road materials, of the county in which such crime is
 6 alleged to have been committed; and in such case the circuit,
 7 criminal or intermediate court of such county, or the judge
 8 thereof in vacation may, in its discretion, enter an order in
 9 the order book of such court permitting such person to labor
 10 upon the county-district roads of said county, or in the prepa-
 11 ration of road materials, as herein provided, until such time
 12 as may be fixed by such court, or judge thereof in vacation. If
 13 at the trial, such person is convicted and sentenced to imprison-
 14 ment in the county jail, or to labor on the county-district roads
 15 of such county, or in the preparation of road materials, he shall
 16 be credited on his term by the number of days he has labored
 17 on such county-district roads, or in the preparation of road
 18 materials, or both; if fined, he shall be credited on the amount
 19 of fine and costs with one dollar and fifty cents per day for
 20 each day he labored on such road, or in the preparation of road
 21 materials, or both, and if acquitted, he shall be paid seventy-
 22 five cents for each day he labored on said roads or in the
 23 preparation of road materials, out of the road funds of the
 24 county or district in which such work is chargeable, when
 25 allowed by the county court.

Sec. 55. Each person sentenced to labor on county-district
 2 roads, or in the preparation of road materials, under the pro-
 3 visions of this act who faithfully complies with all the rules

4 and regulations which may be prescribed by the county road
5 authorities governing the working of prisoners on the county-
6 district roads, or in the preparation of road materials, shall
7 be entitled to a deduction from his sentence of five days for
8 each month on each jail sentence that may be imposed upon
9 him.

Sec. 75. The state road commission shall have charge of
2 the administration of the vehicle laws of this state, including
3 the collection of all license fees and charges, forfeitures and
4 costs, and all other fees and charges arising therefrom or inci-
5 dental thereto, and for that purpose shall have power to employ
6 such assistants, deputies and employees as may be required to
7 carry out the provisions of this act, and to fix their salaries.
8 The commission shall also have power to dismiss or discharge
9 such assistants, deputies and employees at its discretion.

10 Whenever in this act, or in any regulations authorized by
11 this act, the following terms are used, they shall be deemed and
12 taken to have the meanings herein ascribed to them :

13 (a) *Vehicle*. Any mechanical device for the conveyance,
14 drawing or other transportation of persons or property upon
15 the public roads and highways, whether operated on wheels or
16 runners or by other means, except those propelled or drawn
17 by human power or those used exclusively upon tracks.

18 (b) *Truck*. Any motor vehicle designed and used for carry-
19 ing freight or any regularly constructed passenger automobile
20 regularly carrying freight, or any reconstructed motor vehicle
21 used for such purpose.

22 (c) *Motor Vehicle*. Any self-propelled vehicle not operated
23 exclusively upon stationary tracks, except tractors.

24 (d) *Tractor*. Any self-propelled vehicle designed or used as
25 a traveling power plant or for drawing other vehicles, but having
26 no provisions for carrying loads independently.

27 (e) *Trailer*. Any vehicle without motive power designed
28 for carrying property or passengers, wholly on its own structure,
29 and for being drawn by a self-propelled vehicle, except those
30 running exclusively on stationary tracks.

31 (f) *Semi-trailer*. A vehicle of a trailer type so designed
32 and used in conjunction with a self-propelled vehicle that a
33 considerable part of its own weight or that of its load rests
34 upon and is carried by the towing vehicle.

35 (g) *Pneumatic Tires.* Tires of rubber or other material
36 inflated with air, and depending solely upon confined air for
37 the support of the load, and tires of rubber or similar elastic
38 material commonly known as "cushion" tires, when designated
39 by the state road commission as pneumatic tires.

40 (h) *Solid tires.* Tires of rubber or similar elastic material
41 that do not depend upon confined air for the support of the
42 load, except "cushion" tires when otherwise designated by the
43 commission.

44 (i) *Solid tired vehicle.* Any vehicle equipped with two or
45 more solid tires.

46 (j) *Manufacturer-dealer.* Any person, firm or corporation
46-a actively engaged in the manufacture, sale, purchase or ex-
47 change of motor vehicles who has an established place of busi-
48 ness in this state.

49 (k) *Owner.* Any person, firm, corporation or association
50 holding title to a vehicle.

51 (l) *Operator.* Any person who drives or operates a motor
52 vehicle or tractor, except for transportation of persons or prop-
53 erty, or both, for compensation.

54 (m) *Chauffeur.* Any person who operates for hire, or who
55 receives pay directly or indirectly to operate, any motor vehicle,
56 or tractor, or who operates a motor vehicle for transportation
57 of persons or property, or both, for compensation, upon the
58 public highways.

59 (n) *State.* The state of West Virginia, or other constitu-
60 tional unit or territorial or federal district of the United
61 States.

62 (o) *Political sub-division.* Any county, city, town or other
63 similar governmental unit of the state.

64 (p) *Local authorities.* Representatives of political sub-
65 divisions of the state duly elected or appointed to administer
66 the laws and ordinances of the state.

67 (q) *Open country highway.* A highway, or portion thereof,
68 greater than one-fourth of a mile in length, along either side
69 of which the buildings average more than three hundred feet
70 apart.

71 (r) *Urban street—suburban street.* An urban street shall
72 be a public road or highway, or portion thereof, other than an
73 open country highway, or suburban street. A suburban street
74 shall be a public road, highway or portion thereof, not less than

75 one-fourth of a mile in length, on either side of which the
76 buildings average less than three hundred feet apart, but more
77 than fifty feet apart.

78 (s) *Stand.* A fixed place of business in charge of a person,
79 and maintained by a person, firm or corporation operating motor
80 vehicles for hire, where motor vehicles shall be parked when not
81 out on calls.

82 (t) *Second-hand car.* A motor vehicle which has been sold,
83 bargained, exchanged, given away or title transferred from
84 the person who first took title to it from the manufacturer
85 or importer, dealer or agent of the manufacturer or importer
86 and so used as to have become what is commonly known as
87 "second-hand" within the ordinary meaning thereof.

Sec. 76. No motor vehicle shall be driven upon the public
2 roads, or upon any road or street within any incorporated city,
3 town or village within the state until the owner first shall
4 have obtained from the state road commission, as herein pro-
5 vided, a license or certificate of registration therefor. An ap-
6 plicant desiring such license or certificate may obtain the same
7 by filing with the commission, by mail or otherwise, a state-
8 ment setting forth the character of the vehicle to be licensed,
9 including the name of the manufacturer, the style, color of
10 body, motor number, type and factory number of such vehicle,
11 the character of the motor power, the name, age, residence and
12 business address of the owner of such motor vehicle, and the
13 name of the county in which he resides, and shall state whether
14 such motor vehicle is or is not to be used in transportation of
15 passengers property or both for compensation, and if so used or
16 to be used the applicant shall so certify, and shall, as a condition
17 precedent to the securing of such license or certificate of regis-
18 tration, obtain a certificate of convenience from the state road
19 commission in the manner hereinafter provided.

Sec. 77. Upon receipt of any application for registration
2 of a motor vehicle, as provided in the preceding section, the
3 commission shall cause such application to be filed, and upon
4 the payment of the fee hereinafter provided, the commission
5 shall assign to such vehicle a distinctive number and deliver
6 to the owner a certificate of registration and number plate or
7 plates as herein provided; and in the event of loss or destruc-
8 tion the owner may obtain new plates upon the payment of a

9 fee of one dollar, and giving satisfactory evidence of such
10 loss or destruction. No motor vehicle shall be driven upon
11 the highways of the state without the proper license or regis-
12 tration plates fastened thereon. An automobile shall be re-
13 quired to carry two such plates, and any other motor vehicle,
14 required to be licensed under the provisions of this chapter,
15 shall carry one such license plate. *Provided*, that registration
16 plates issued by the commission prior to the first of the year
17 for which issued, may be placed on the vehicle for which is-
18 sued not more than ten days prior to the first day of said year
19 without additional registration fee.

20 The commission shall, under such reasonable regulations as it
21 may prescribe, deposit with such person or persons (and at the
22 county seat in each county of the state in which the county court
23 thereof applies) for such county issuance and delivery of regis-
24 tration plates for motor vehicles required to be licensed or reg-
25 istered under Classes A and B and to bear number plates, as
26 provided in this chapter.

Sec. 80. The United States government, the state, or any
2 political sub-division thereof, shall be exempted from the pay-
3 ment of any fee on account of registration of any vehicle, owned
4 or operated by the United States government, state or any
5 political sub-division thereof, as the case may be; *provided*,
6 that the proper representative of the federal government, state,
7 or any political sub-division shall make, or cause to be made,
8 on the form provided for that purpose, an application for
9 registration of such vehicle so owned and operated; and the
10 registration plate or plates issued for such vehicle shall be dis-
11 played or caused to be displayed as provided in this act;
12 *provided, further*, that fire apparatus owned by the United
13 States government, the state or any political sub-division of
14 the state shall be exempted from all the provisions of this act,
15 except such provisions as relate to the qualification and licensing
16 drivers.

Sec. 81. Every owner of one or more vehicles, not expressly
2 exempted by this act, shall make a separate application, properly
3 verified, for each vehicle on a form provided by the commission,
4 for permission to operate the same on the public roads of this
5 state. Said application shall be accompanied with a certifi-
6 cate of ownership, on a form prescribed by the commission,
7 of the vehicle for which registration is requested, which certifi-

8 cate of ownership shall show the name of the individual, firm
9 or corporation from whom the said vehicle was purchased. In
10 such application for registration the applicant shall furnish
11 such other information as the commission may require. Upon
12 receipt of the application for registration together with the
13 fees hereinafter provided for, the commission shall file said
14 application and give to the same a distinguishing mark or
15 number, and shall issue to the owner of the vehicle a certifi-
16 cate of registration, which shall contain the number or mark
17 assigned said vehicle, the name and place of residence of the
18 owner and his post office address, if the same shall be different
19 from his place of residence. Such certificate shall be of con-
20 venient size and form, and shall at all times be carried upon
21 said vehicle, and shall be subject to examination upon demand
22 by any proper officer as herein provided. In addition to the
23 certificate of registration the commission shall, without addi-
24 tional charge, deliver to the owner, metal plates bearing the
25 abbreviation of the name of this state, the year for which
26 issued, and the distinguishing mark or number assigned to
27 such vehicle. Such plate or plates shall be known as registra-
28 tion plates. Each year there shall be chosen a color, or com-
29 bination of colors, for such registration plates, which shall be
30 as different as practicable from the color, or colors, used on
31 the plates of the preceding year, and the numerals and letters
32 on said plates shall be of such color as to be shown in marked
33 contrast with the remainder of the plate. The plates shall be
34 of such size and character as the commission may prescribe so
35 as to properly accommodate the numerals and other marks.

36 Any person, firm or corporation failing to carry the certifi-
37 cate of registration provided by this act, or who changes the
38 name, number or other identification information on the cer-
39 tificate of registration, or registration plates, shall be deemed
40 guilty of a misdemeanor, and shall, upon conviction, be fined
41 not less than ten dollars, nor more than one hundred dollars;
42 *provided*, that in the case of a person to whom a certificate
43 has been issued, but who at the time of arrest has not the same
44 with him, the minimum fine shall be one dollar instead of ten
45 dollars as hereinbefore prescribed.

46 The provisions of this act shall apply both to the operator,
47 or chauffeur, and to the owner who causes or permits his

48 vehicle to be operated without a certificate of registration as
49 herein provided.

See. 82. The following fees shall be paid to the commis-
2 sion for the certificate of registration and corresponding
3 registration plates issued by it in accordance with the provi-
4 sions of this act.

5 *Class A.* Effective January first, one thousand nine hun-
6 dred and twenty-six, the registration fee for all motor vehicles,
7 other than trucks or motor vehicles used in transportation of
8 passengers or property, or both, for compensation, equipped
9 with pneumatic tires, shall be thirteen dollars for a vehicle
10 of a weight of two thousand pounds or less and for all motor
10-a vehicles having a weight of over two thousand pounds, sixty
11 cents additional for each one hundred pounds of weight in ex-
12 cess of two thousand pounds, and for the purpose of determin-
13 ing the weight except those used in transportation of passen-
14 gers or property, or both, for compensation, the actual weight
15 of the vehicle shall be taken.

16 *Class B.* The registration fee for motor vehicles equipped
17 with solid rubber tires and used for the transportation of
18 merchandise, supplies, and for any purpose other than trans-
19 portation of passengers or property, or both, for compensation,
20 shall be twenty-five dollars yearly for motor vehicles of one
21 ton or less capacity; fifty dollars yearly for a vehicle of more
22 than one ton and not more than two tons capacity; seventy-five
23 dollars yearly for a vehicle of more than two tons and not
24 more than three tons capacity; one hundred dollars yearly
25 for a vehicle of more than three tons and not more than four
26 tons capacity; and one hundred and fifty dollars yearly for
27 a vehicle of more than four tons capacity; *provided*, that
28 the manufacturer's rated capacity for the chassis shall be
29 used in determining the capacity of any vehicle licensed under
30 this class. The registration fee for vehicles of the kind
31 enumerated under this class but equipped with pneumatic
32 tires shall be three-fourths of the amount of the fee charged
33 when equipped with solid tires; *provided*, that all passenger
33-a vehicles converted so as to carry freight and the transporta-
33-b tion of property, and having a carrying capacity of less than
33-c one ton and which are equipped with pneumatic tires shall
33-d pay a yearly fee of fifteen dollars.

34 *Class C.* The registration fee for vehicles trailed or pro-
35 pelled by any motor vehicle or tractor required to be regis-

36 tered, other than any motor vehicle used in transportation of
37 passengers or property, or both, for compensation, shall be
38 five dollars for a vehicle of one ton or less capacity, equipped
39 with tires of solid rubber or steel, and seven dollars and
40 fifty cents for each additional ton capacity, or fraction
41 thereof; *provided*, that the registration fee for vehicles
42 trailed or propelled by any motor vehicle used in transpor-
43 tation of passengers or property or both for compensation,
44 equipped with tires of solid rubber or steel shall be two times
45 the fee above stated; and, *provided further*, that the fee in the
46 case of a vehicle equipped only with pneumatic tires shall be
47 one-half that shown for solid rubber or metallic tires.

48 *Class D.* The registration fee for each motorcycle shall
49 be five dollars yearly, and for each side car attached to a
50 motorcycle an additional two dollars and fifty cents yearly.

51 *Class E.* The registration fee for all tractors, traction
52 engines and similar vehicles used to propel, support, trans-
53 port, or draw a trailer, or trailers, or semi-trailer or semi-
54 trailers, upon the roads of this state, except as herein provided,
55 shall be as follows:

56 For such vehicle having a weight of two tons or less, twenty
57 dollars; for such vehicle having a weight of more than two
58 tons but not more than two and one-half tons, twenty-five
59 dollars; for such vehicle having a weight of more than two
60 and one-half tons but not more than three tons, thirty dollars;
61 for such vehicle having a weight of more than three tons
62 but not more than three and one-half tons, thirty-five dollars;
63 for such vehicle having a weight of more than three and
64 one-half tons but not more than four tons, forty dollars; for
65 such vehicle having a weight of more than four tons but not
66 more than four and one-half tons, forty-five dollars; for such
67 vehicle having a weight of more than four and one-half but
68 not more than five tons, fifty dollars; for such vehicle having
69 a weight of more than five tons but not more than five and
70 one-half tons, sixty dollars, for such vehicle having a weight
71 of more than five and one-half tons but not more than six
72 tons, seventy dollars; for such vehicle having a weight of
73 more than six tons but not more than six and one-half tons,
74 eighty dollars; for such vehicle having a weight of more than
75 six and one-half tons but not more than seven tons, ninety
76 dollars; for such vehicle having a weight of more than seven
77 tons but not more than seven and one-half tons, one hundred

78 dollars; for such vehicle having a weight of more than seven
79 and one-half tons, but not more than eight tons, one hundred
80 and ten dollars; for such vehicle having a weight of more
81 than eight tons, but not more than eight and one-half tons,
82 one hundred and twenty dollars; for such vehicle having a
83-88 weight of more than eight and one-half tons but not more
89 than nine tons, one hundred and thirty dollars; for such
90 vehicle having a weight of more than nine tons but not more
91 than nine and one-half tons, one hundred and forty dollars;
92 for such vehicle having a weight of more than nine and one-
93 half tons but not more than ten tons, one hundred and sixty
94 dollars; for such vehicle having a weight of more than ten
95 tons, one hundred and eighty dollars. This charge shall not
96 be made in the case of tractors used exclusively for agricul-
97 tural purposes; *provided*, that such rims or other sufficient
98 devices shall be used on the wheels of such tractors as will
99 protect the roads or highways traveled by them from any
100 unusual damages thereto; *provided, further*, that the owners
101 of such tractors shall be liable for any damages done by them
102 to public roads in excess of that done by ordinary travel
103 thereon; *provided, further*, that this charge shall not be made
104 for traction engines and rollers used in road construction or
105 maintenance.

106 *Class F.* Each dealer in motorcycles shall pay a fee of
107 ten dollars yearly, in consideration of which he shall receive
108 two sets of registration plates for dealers, and for each addi-
109 tional set of plates such dealer shall pay five dollars. The
110 conditions for use of motor vehicles set forth under Class G
111 shall apply also to motorcycles and dealers in the same.

112 *Class G.* A dealer within the meaning of this act shall be
113 a person, partnership, corporation, or joint stock company,
114 whose business shall be the buying and selling of motor
115 vehicles or the exchanging of motor vehicles. Each dealer
116 in motor vehicles, except motorcycles, shall pay a fee of thirty
117 dollars yearly, in consideration of which he shall receive one
118 set of special registration plates to be used only on vehicles
119 operated upon the highways and such plates may be used on
120 any vehicle owned by such dealer that is for sale or is used
121 for demonstration purposes; *provided*, that in case of
122 sale or exchange of a vehicle, the dealer may give permission
123 in writing, to the new owner of the vehicle to use said dealer's
124 license plates for a period not to exceed ten days, and the new

125 owner shall not use such dealer's plates for a period in excess
126-129 of ten days. Five additional sets of plates shall be issued to
130 any dealer licensed in accordance with this act, upon appli-
131 cation and payment of a fee of fifteen dollars. Additional
132 sets of said plates shall be issued to any dealer licensed in
133 accordance with this act, upon application and payment of
134 a fee of two dollars for each additional set; *provided*, that
135 dealer's plates shall not be used on motor vehicles used in
136 transportation of persons or property, or both, for compen-
137 sation. The commission shall have power to grant, in its
138 discretion, special permits to a dealer for use on motor
139 vehicles driven under their own power from the factory or
140 distributing place of a manufacturer, or other dealer, to the
141 place of business of such dealer, and the commission shall
142 charge a fee of one dollar for each such permit. Such special
143 permit shall be good only for one trip and for the specific
144 vehicle upon which used, and such permit shall not be used
145 by such dealer in lieu of any registration certificate or plate
146 required by this act. No dealer shall use the dealer's plates
147 upon any vehicle used for the transportation of freight, or
148 for passenger service, pleasure or hire.

149 Any person or persons violating any of the provisions of
150 this act, shall, upon conviction, be guilty of a misdemeanor
151 and shall be fined not less than fifty dollars nor more than
152 one hundred dollars for the first offense and for the second
153 or subsequent offense shall be fined not less than one hundred
154 dollars nor more than five hundred dollars, and in addition
155 thereto his license shall be revoked for the balance of the
156 calendar year.

157 *Class H.* No motor vehicle shall be operated over any
158 public road or highway or over any street or alley within an
159 incorporated city or town in this state, for transportation
160 of passengers or property or both for compensation until the
161 owner or operator of such vehicle shall have first ~~made~~ appli-
162 cation to, and secured from, the state road commission a
163 permit or certificate of convenience to operate such vehicle.
164 Such classification shall include public livery vehicles, cars
165 for hire or for rent, taxicabs, bus lines, truck lines and any
166 other transportation of passengers or property for compensa-
167 tion, without regard as to whether such operation is between
168 fixed termini or over regular routes or otherwise.

169 The application for such permit or certificate shall be in

170 writing and shall contain full information concerning the
171 financial condition and physical property of the applicant,
172 and shall state the capacity of such vehicle or vehicles and the
173 purpose for which the same is to be used; if the service pro-
174 posed is to be over a regular route or between fixed termini,
175 then such route or termini, the rates proposed to be charged,
176 and the proposed schedule or time cards shall be designated;
177 if the service proposed to be rendered is not over a regular
178 route or between fixed termini, then such other matters as
179 the state road commission shall from time to time prescribe,
180 shall be designated. All vehicles operating under the provi-
181 sions of Class H-3, shall operate from a stand or stands and
182 the road commission shall have power to grant a certificate to
183 any applicant who operates from a stand or stands and who
184 does not propose to operate upon a regular schedule, but who
185 is privately employed for a specific trip and who will not
186 solicit or receive patronage along a route for which a certificate
187 of convenience has been granted by the state road commission
188 for the operation of vehicles over a regular route or between
189 fixed termini. *Provided, however,* that vehicles operating under
189-a Class H-3 may receive passengers along routes for which a
189-b certificate of convenience has been granted, but not at or
189-c within two hundred feet of any building owned or maintained
189-d as a designated stop; and, *provided, further,* that the charge
189-e made by such persons operating under Class H-3 for such
189-f service when rendered over a route for which a certificate of
189-g convenience has been granted shall not be greater than the
189-h rate charged by the holder of such certificate of convenience.
189-i The state road commission shall have the power to issue to any
190 applicant a certificate of convenience, or to refuse to issue
191 the same, or to issue it for the partial exercise only of the
192 privileges sought, and may attach to the exercise of the rights
193 given by such certificate such terms and conditions as in its
194 judgment the public convenience and necessity may require.
195 No such certificate of convenience shall be issued by the com-
196 mission until it shall be established to the satisfaction of the
197 commission, after a proper investigation, that the privilege
198 so sought by the applicant is necessary or convenient for the
199 public, and that the service so proposed to be rendered by the
200 applicant is not being adequately performed at the time of
201 such application by any other person, partnership or corpor-

202 ation. If a certificate of convenience be granted for service
203 over a regular route or between fixed termini, the state road
204 commission shall prescribe the route, territory, schedule, fare
205 or tariff in connection with such service, and in all cases may
206 make such other rules and regulations relative to the operation
207 of such vehicle or vehicles as public justice may demand.
208 When such certificate of convenience is issued for service over
209 a regular route or between fixed termini, no change shall be
210 made in the route, schedule, fares or tariffs of such vehicle or
211 vehicles without the express permission of the state road com-
212 mission. The owner of or operator under any certificate of
213 convenience shall make such report and furnish such detailed
214 information with respect to the service rendered as the com-
215 mission shall from time to time direct. The state road com-
216 mission shall have the power to issue any certificate of con-
217 venience for such length of time not in excess of five years as
218 in its judgment the service proposed and the capital to be
219 invested in such proposed service may justify; *provided*,
220 *however*, that motor vehicles operated for transportation of
221 passengers or property, or both, for compensation, and not
222 running over a regular route or between fixed termini, or
223 having a regular time schedule, shall be granted such certifi-
224 cate only until the first day of January next following. Such
225 certificates of convenience may be renewed at their expiration,
226 unless for some good cause the commission shall refuse to
227 re-issue the same. Any certificate held, owned or obtained
228 by any person may be sold, assigned, leased, transferred or
229 inherited as other property only upon authorization by the
230 commission.

231 No certificate, except for vehicles operated under Class H-4,
232 shall be issued by the state road commission to any applicant
233 until and after such applicant shall have filed with the state
234 road commission a bond with surety approved by the com-
235 mission or liability insurance satisfactory to the commission,
236 and in such sums as to injury to persons and as to loss of or
237 damage to property, respectively, as the commission may deem
238 necessary to adequately protect the interest of the public with
239 due regard to the number of persons and the amount of
240 property involved, which bond shall bind the obligors there-
241 under to make compensation for injury to persons and loss of
242 or damage to property resulting from the operation of such
243 motor vehicles. Upon failure of such bond or policy, by

244 cancellation or otherwise, the permit or certificate shall become
245 null and void, and the registration plates and registration
246 card and permit shall be returned to the commission for can-
247 cellation; *provided*, that such permit or certificate shall not
248 become null and void if the grantee thereof shall file with the
249 commission a new policy or bond, satisfactory to the commis-
250 sion, before the failure of such first policy or bond. Insurance
251 policy or bond so required to be filed shall be kept on file with
252 the state road commission during the time such permit or
253 certificate shall be in effect. In case such new policy or bond
254 be not filed, if the grantee of such permit or certificate oper-
255 ates his vehicle after the date of failure of such original
256 policy or bond he shall be guilty of a misdemeanor and upon
257 conviction thereof be punished with a fine of not less than one
258 hundred dollars nor more than one thousand dollars, or with
259 imprisonment of not less than thirty days nor more than one
260 year, or with both fine and imprisonment, such penalty to
261 apply to both owner and operator. The state road commission
262 shall adopt and furnish such rules and regulations as may be
263 found necessary to carry out the provisions of this section.

264 If any applicant for a certificate of convenience shall desire
265 to exercise the privilege sought wholly within any city or
266 incorporated town, such applicant shall, before making appli-
267 cation to the state road commission as herein prescribed, apply
268 for and obtain from the city or town council, or other proper
269 authority of such city or incorporated town, a permit author-
270 izing such applicant to make application to the state road
271 commission, and such permit may prescribe such reasonable
272 rules and regulations as the proper authorities of such city
273 or incorporated town may direct with respect to the privilege
274 sought insofar as the same may pertain to the stopping and
275 parking of vehicles, zoning, use of one-way streets, kind and
276 character of traffic on certain streets and other like matters
277 affected by local conditions. If the state road commission
278 shall then issue a certificate of convenience to such applicant
279 the rules and regulations as prescribed by such incorporated
280 town or city shall be a part of such certificate of convenience;
281 and the state road commission shall in no case issue a certifi-
282 cate to an applicant proposing to render a public service
283 wholly within a city or incorporated town until and *after*
284 such permit shall have been first obtained by such applicant
285 from the proper authority of such city or incorporated town.

286 Any person violating any of the provisions of this section
287 or the rules and regulations regularly adopted by the state
288 road commission as authorized herein, shall be guilty of a
289 misdemeanor and upon conviction thereof shall be punished
290 with a fine of not less than five dollars nor more than two
291 hundred dollars, and in addition thereto such certificate of
292 convenience may be suspended or revoked by the state road
293 commission upon the complaint to it of any person interested
294 or by the commission on its own motion, after hearing duly
295 had upon at least five days' notice to all parties interested.
296 Immediately upon such suspension or revocation the regis-
297 tration plates and registration card and permit shall be for-
298 warded to the state road commission for cancellation. Notice
299 in writing sent by registered mail to the address given in the
300 application for such permit of certificate shall be sufficient
301 notice of such hearing.

302 The holder of any permit or certificate of convenience
303 obtained in the manner aforesaid shall yearly pay the follow-
304 ing fees for such permit or certificate to the commission,
305 which shall be in lieu of all fees for certificates of registration
306 and corresponding registration plates.

307 *Class H-1.* Motor vehicles operated for transportation of
308 passengers between fixed termini or over regular routes shall
309 each be charged and pay one-fifteenth of a cent for each
310 passenger seat multiplied by the total number of miles that
311 said applicant shall show will be traveled over any public
312 roads or highways, or over any streets or alleys within any
313 incorporated city or town in this state by such motor vehicle
314 during the year for which such certificate is issued; *provided,*
315 that the minimum fee to be paid for a vehicle operated under
316 this class shall not be less than the fee that would be required
317 to be paid for such vehicle if operated under Class H-3, unless
318 such permit or certificate is for part of a route extending
319 into this state from an adjoining state, in which latter event
320 the permit or certificate may be granted or renewed at the
321 discretion of the commission for a lesser fee.

322 *Class H-2.* Motor vehicles operated for transportation of
323 property between fixed termini, or over regular routes, if of
324 three tons or less carrying capacity, shall each be charged and
325 pay one-fourth of a cent per each ton mile multiplied by the
326 total number of miles that said application shall show will be
327 traveled by such motor vehicles over any public roads or

328 highways or over any streets or alleys within any incorporated
329 city or town in this state during the year for which such
330 certificate is issued. If such motor vehicle be over three tons
331 carrying capacity, each shall be charged and pay one-third
332 of a cent per each ton mile multiplied by the total number
333 of miles that said application shall show will be traveled by
334 such motor vehicle over public roads or highways or over
335 any streets or alleys within any incorporated city or town
336 in the state during the year for which such certificate is
337 issued; *provided*, that the minimum fee to be paid for a vehicle
338 operated under this class shall not be less than the fee that
339 would be required to be paid for such vehicle if operated under

340 Class H-4, unless such permit or certificate is for part of a
341 route extending into this state from an adjoining state, in
342 which latter event the permit or certificate may be granted or
343 renewed at the discretion of the commission for a lesser fee.
344 *Class H-3.* Motor vehicles operated for transportation of
345 passengers not running over a regular route or between fixed
346 termini shall each be charged and pay seventy-five dollars
347 yearly. Ambulances and hearses used exclusively in their
348 work shall be exempted from the above special fee.

349 *Class H-4.* Motor vehicles operated for transportation of
350 property not running over a regular route or between fixed
351 termini, shall each be charged and pay a fee of double that of
352 trucks not used commercially.

353 No license or tax shall be charged by any municipality or
354 other political sub-division of the state, except the regular
355 property tax, with respect to such vehicles and their operation.

Sec. 83. The license or registration fees herein prescribed
2 shall be for the entire calendar year; *provided*, that where
3 application is made therefor between the first day of April
4 and the thirtieth day of June, inclusive, in any year, the charge
5 therefor shall be three-fourths of the sum charged for such
6 yearly license and where application for such license and regis-
7 tration is made between the first day of July and the thirtieth
8 day of September, inclusive, of any year, the sum charged
9 therefor shall be one-half of the sum charged for a yearly
10 license; and where application for such license and registra-
11 tion is made after the thirtieth of September in any year, one-
12 fourth of such yearly license shall be charged, and in all cases
13 where a license is issued after the thirtieth day of September
14 in any year there shall be paid in addition to the license herein

15 provided for the additional sum of one dollar.

16 In the event of the loss or inadvertent destruction of any
17 plate issued under the provisions of this act, the commission
18 shall investigate the circumstances of alleged loss or destruction,
19 and if satisfied that the loss or destruction has occurred as
20 alleged, shall issue a duplicate, or duplicates, or may in its
21 discretion issue a new set of plates with appropriate certificate
22 of registration, at a cost not to exceed one dollar. In the event
23 of the loss or inadvertent destruction of any certificate of
24 registration issued under the provisions of this act, the com-
25 mission may issue a duplicate upon receipt of affidavit of such
26 loss at a cost not to exceed one dollar.

27 The registration certificates and the right to use the corre-
28 sponding registration plates shall expire at midnight of Decem-
29 ber thirty-first of the year for which issued.

30 Upon the destruction or permanent removal from the state
31 of any registered motor vehicle, its certificate of registration
32 and the right to use the number plates or markers thereon shall
33 expire; *provided*, that the commission shall permit the persons
34 to whom such certificates and plates or markers were originally
35 issued to surrender the same, and shall allow to him a refund
36 of the amount paid for registration markers and certificate
37 for the quarterly periods remaining wholly unexpired; *pro-*
38 *vided, further*, that the provision for refund shall not apply
39 to vehicles operated under a permit or certificate of convenience.

40 Upon the transfer of ownership of any motor vehicle, its
41 certificate of registration and the right to use the number plates
42 or markers shall expire, and it shall be the duty of the original
43 owner to immediately notify the commission of the name and
44 address of the new owner, and to deliver to the purchaser the
45 license certificate and plates or markers belonging thereto. It
46 shall be the duty of the purchaser immediately to file with the
47 commission an application for a transfer of such registration
48 accompanied with said certificate, for which the commission
49 shall issue a transfer certificate and charge a fee of one dollar.
50 If such license certificate be not filed the purchaser shall be
51 charged a fee of two dollars for said license transfer certificates;
52 *provided*, that certificates of registration and corresponding
53 registration plates of vehicles operating under a permit or
54 certificate of convenience, may be transferred only under the
55 provisions of and when provided by the rules and regulations
56 of the state road commission.

57 Any person who shall obtain a registration certificate or
 58 registration plates, or other licenses provided for in this act,
 59 by misrepresentation or by any other method not authorized
 60 by law, and any person who shall violate any of the other pro-
 61 visions of this section shall be guilty of a misdemeanor, and
 62 such person upon conviction thereof, shall be punished with a
 63 fine of not less than ten dollars, nor more than fifty dollars, and
 64 may be thereafter refused a license or certificate of registration.
 65 Said penalty shall apply to the owner as well as to the operator
 66 of such vehicle.

Sec. 87. No person shall operate or permit to be operated
 2 on any road or highway in this state a vehicle unless he shall
 3 display thereon the registration plate or plates of such vehicle,
 4 as in this act provided. No person shall operate or permit to
 5 be operated a vehicle registered in this state upon which there
 6 is displayed the registration plate of another state, or a
 7 fictitious registration plate, or the plate of another vehicle,
 8 or the plate of a previous owner of the same vehicle: *provided*,
 9 *however*, that in the event of the sale of a vehicle the person
 10 purchasing the same may for a period of not more than ten
 11 days operate such vehicle under the registration of its previous
 12 owner and display the registration plate thereof; *provided*,
 13 *further*, that he shall have and display on the demand of any
 14 proper officer the consent in writing of such previous owner so
 15 to use such registration. Any person violating any provision
 16 of this section shall be deemed guilty of a misdemeanor and
 17 upon conviction thereof shall be punished with a fine of not
 18 less than ten dollars, nor more than fifty dollars.

Section 95.

	On open country highway miles per hour.	On suburban street miles per hour.	On urban street miles per hour.
2			
3 Maximum weight, including gross			
4 weight of vehicle and load:			
5			
6			
7 Vehicles designed for carrying			
8 passengers	35	25	15
9 Other vehicles equipped with			
10 pneumatic tires.....	25	20	15
11 Vehicles equipped with solid tires			
12 less than 4000 pounds.....	15	10	10

13	Over 4000 pounds.....	15	10	10
14	Steel-tired vehicles over 2000 lbs.	5	5	5

15 Any person who shall operate on any highway in this state
 16 a vehicle whose size or weight exceeds that herein prescribed,
 17 or at a greater rate of speed than herein allowed shall be guilty
 18 of a misdemeanor, and upon conviction thereof shall be punished
 19 by a fine of not less than ten dollars, nor more than fifty dollars,
 20 and may be confined in the county jail for fifteen days, or by
 21 both fine and imprisonment in the discretion of the court for
 22 the first offense; and for a second or subsequent offense he
 23 shall be punished with a fine of not less than fifty dollars, nor
 24 more than two hundred dollars, and shall be confined in the
 25 county jail not less than thirty days nor more than sixty days,
 26 and his license shall be revoked as provided in section eighty-
 27 nine of chapter one hundred and twelve of the acts of the legis-
 28 lature of one thousand nine hundred and twenty-one.

29 The trial court shall assess as a part of the costs in the case
 30 a special fee of two dollars for the officer making the arrest and
 31 conviction for any violation of the automobile laws of this
 32 state.

33 *Provided, further,* that a transcript of the record from the
 34 docket of the trial court covering every conviction of an offense
 35 which constitutes a violation of the motor vehicle laws of this
 36 state, shall be made up and transmitted to the state road com-
 37 mission by such trial court, whether such offense be tried under
 38 the provisions of a municipal ordinance or of the state road
 39 law.

40 *Provided, further,* that it shall be the duty of the depart-
 41 ment of public safety, its officers and state police, the sheriffs
 42 of the several counties of the state, and the duly elected or
 43 appointed constables and deputies, justices of the peace, mayors
 44 of cities and towns and city police, to render to the commission
 45 all necessary aid and assistance in the performance of its duties
 46 of maintaining and properly policing the roads of this state
 47 without extra charge or compensation for such service to the
 48 state.

Sec. 103a. For the purpose of obtaining materials to be
 2 used in the construction and maintenance of county-district
 3 roads, the county court is hereby authorized and empowered
 4 on behalf of the county to establish stone quarries, stone crush-

5 ing plants, and erect such sheds and other buildings in con-
6 nection therewith, as shall be actually necessary in the prosecu-
7 tion of its work and to acquire lands and appurtenances thereto.
8 The county court shall also have the power to rent, purchase,
9 condemn, or acquire by any other lawful means, stone quarries,
10 gravel or other material with rights of way thereto; to remove
11 such materials from such lands to other places; to prepare the
12 said materials for use; to purchase such equipment as shall
13 be actually necessary therefor; to make such contracts and
14 employ such labor as may be necessary to establish and con-
15 duct such plants; to acquire, prepare and transport such
16 materials for use and to do all other things needful or necessary
17 in connection therewith; and all costs and expenses incidental
18 thereto shall be paid out of the county road fund.

Sec. 185. .Obstructions within the meaning of this act shall
2 include trees which have been cut or have fallen either on ad-
3 jacent land or within the bounds of the public roads in such
4 a manner as to interfere with the travel thereon; limbs of trees
5 which have fallen within the public road or branches of trees
6 overhanging the public road, so as to interfere with travel
7 thereon, land slides, carcasses of dead animals, lumber, wood
8 or logs piled within the bounds of the public road, machines,
9 vehicles, conveyances and implements abandoned or habitually
10 placed within the bounds of the public roads; fences, build-
11 ings, or other obstructions within the bounds of the public
12 road; earth, stone or other material placed in any ditch or
13 waterway along the public road; telegraph, telephone, trolley
14 or other poles and wires connected therewith, erected on the
15 public road in such a way as to interfere with the use thereof.
16 or any other thing which will prevent the easy, safe and con-
17 venient use of such public road for public travel.

18 Such obstructions so placed and left within the limits of such
19 road are hereby declared to be public nuisances, and in addition
20 to the remedy hereinbefore provided, the county court or the
21 state road commission, as the case may be, may apply to the
22 circuit court or other court of competent jurisdiction of the
23 county in which they may be, for an injunction to abate such
24 nuisance.

All acts or parts of acts inconsistent with this act are hereby
repealed.

CHAPTER 18

(Senate Bill No. 38—By Mr. Hugus)

AN ACT to create a state crippled children's council.

[Passed March 31, 1925; in effect 90 days from passage. Approved by the Governor.]

<p>Sec.</p> <p>1. Crippled children's council created: membership of; vacancies, how filled.</p> <p>2. Power and duties of council.</p> <p>3. Organization of council.</p> <p>4. Adopt rules and regulations.</p>	<p>Sec.</p> <p>5. Provide necessary quarters and office equipment.</p> <p>6. Compensation.</p> <p>7. Reports.</p> <p>8. Repeal conflicting acts.</p>
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Be it enacted by the Legislature of West Virginia:

That provision be made for the care and welfare of the crippled children of the state; that a council for the purpose be created, and its creation, organization, powers and duties be defined.

Section 1. A state crippled children's council is hereby
 2 created. The council shall consist of a member of the state
 3 board of control, designated by the governor, and state com-
 4 missioner of health, the state superintendent of free schools,
 5 and the executive secretary of the state board of children's
 6 guardians, all *ex-officio*, and three members of the West Vir-
 7 ginia society of crippled children, appointed by the governor
 8 from candidates nominated by said society for the term of four
 9 years. Vacancies in the council shall be filled in the same
 10 manner as the original designations or appointments are made.

Sec. 2. It shall be the duty of the council to formulate
 2 and put into effect administrative policies, and to co-ordinate
 3 the work done under existing statutes relating to the care, cure
 4 and education of physically handicapped children; to inquire
 5 into and report upon the number, distribution and conditions
 6 of physically handicapped children throughout the state, and
 7 existing educational, hospital and professional facilities, and
 8 legal provisions for promoting the care, treatment, education
 9 and general welfare of said children, and to recommend means
 10 more adequately to meet their needs. In formulating such
 11 administrative policies and making such inquiry, the council
 12 shall confer with and use the services of the state department
 13 of health, the state department of education, state board of
 14 children's guardians, and the state board of control, the repre-
 15 sentatives of the civic bodies and other voluntary organiza-
 16 tions and groups which have made special study of physically

17 handicapped children, and all local public officials who are in
18 a position to render assistance to the council.

Sec. 3. The council shall choose from its own members a
2 chairman and vice-chairman, and employ such subordinates as
3 may be needed to carry out the provisions of this act, such
4 officers and employees to be persons who have had experience
5 in work relating to the care, cure and education of physically
6 handicapped children. The chief administrative officer chosen
7 by the council, who shall be a person conversant with orthopedic
8 science, shall act as secretary.

Sec. 4. The council may adopt rules and regulations neces-
2 sary and proper for the conduct of its work.

Sec. 5. The council shall be provided with necessary quar-
2 ters and office equipment in some existing state department
3 represented in the council, if practicable, and if not in another
4 suitable place at the capitol.

Sec. 6. The members of the council shall receive no compen-
2 sation for their time, but with the exception of the four *ex-officio*
3 members, shall be entitled to their actual and necessary expenses
4 incurred in the performance of their duties.

Sec. 7. The council shall make a report bi-annually to the
2 governor within thirty days of the convening of each regular
3 session of the legislature, and may accompany this report with
4 such recommendations and legislative proposals as it may deem
5 necessary or proper.

Sec. 8. All acts and parts of acts inconsistent herewith are
hereby repealed.

CHAPTER 19

(Senate Bill No. 230—By Mr. Johnson)

AN ACT declaring certain buildings and places used for pur-
poses of prostitution to be nuisances, providing for suits in
equity to enjoin the same, and to assess taxes thereon, and
providing penalties for the violation of injunctions issued
hereunder.

[Passed April 15, 1925; in effect 90 days from passage. Became a law without the
approval of the Governor.]

<p>Sec. 1. Definition of terms. 2. What constitutes a nuisance; shall be enjoined.</p>	<p>Sec. 3. How nuisances may be abated and perpetually enjoined.</p>
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<p>SEC.</p> <p>4. Suits in circuit court; complaint and pleadings; time to commence suit; notice; property not to be moved; injunction orders; service of; bonds for abatement; return property to owner; not released from judgment.</p> <p>5. <i>Prima facie</i> evidence of nuisance; complaint, prosecution of; judgment and cost.</p> <p>6. Order of abatement; bond; break-</p>	<p>Sec.</p> <p>ing in or entering closed property; sheriff's fees for removing and selling property.</p> <p>7. Criminal proceedings; proceeds from sale of personal property.</p> <p>8. Violation of injunctions or closing orders; trial; penalty.</p> <p>9. Permanent injunctions; tax.</p> <p>10. Notice to collect tax.</p> <p>11. Provision of this act cumulative.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of this act the terms "place," "person," "nuisance" are defined as follows: place shall include any building, structure, erection or place, or any separate part or portion thereof, or the ground itself; person shall include any individual, corporation, association, partnership, trustee, lessee, agent, or assignee; nuisance shall mean any place as above defined in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued or exists, and the personal property and contents used in conducting or maintaining any such place for any such purpose.

Sec. 2. Any person who shall use, occupy, establish or conduct a nuisance as defined in section one, or aid or abet therein, and the owner, agent, or lessee of any interest in any such nuisance, together with the person employed in or in control of any such nuisance, by any such owner, agent, or lessee, shall be guilty of maintaining a nuisance and shall be enjoined as hereinafter provided.

Sec. 3. Whenever a nuisance exists the attorney general of the state, the prosecuting attorney of the county wherein the same exists, or any person who is a citizen, resident or taxpayer of the county may bring suit in equity in the name of the state of West Virginia, upon the relation of such attorney general, prosecuting attorney, or any person to abate such nuisance and to perpetually enjoin the person or persons maintaining the same from further maintenance thereof.

Sec. 4. Such suit shall be brought in the circuit court of the county in which the property is located, or in any other court of the county having equity jurisdiction. The bill of complaint and other pleadings, and all proceedings in the case, shall conform to the law of the state with respect to equity procedure and to the rules and principles governing courts of equity, except so far as otherwise herein provided.

At the time of the commencement of the suit or at any time

9 during the pendency thereof, the plaintiff or his attorney may
10 file in the office of the clerk of the county court of the county
11 in which such property is located, a memorandum or notice
12 setting forth the title of the case, the court in which it is
13 pending, the general object of the suit, a brief description of
14 the property to be affected thereby, and name of the person
15 or persons whose estate therein is intended to be affected by
16 such suit. Such notice shall be immediately recorded by the
17 clerk of the county court in the deed book and he shall index
18 the same in the name of all parties whose interest in the said
19 property is to be affected; and said notice shall from and
20 after its said recordation be notice to all purchasers of such
21 property of the pendency of said suit. Upon the application
22 for an injunction in such suit, the court or judge may in his
23 discretion enjoin the defendants and all other persons from
24 removing or in any manner interfering with the personal
25 property and contents of the place where such nuisance is
26 alleged to exist, until the final decision of the case. A copy
27 of the said injunction order may be posted in a conspicuous
28 place upon the premises proceeded against, and any person
29 thereafter removing or interfering with said property shall be
30 guilty of a violation of such injunction, and any person remov-
31 ing or mutilating such copy of the order so posted, while the
32 same remains in force, shall be guilty of contempt of court,
33 provided such posted order contains thereon or therein a
34 notice to that effect. The officer serving such injunction order
35 shall forthwith make and return into court an inventory of
36 the personal property and contents situated in the building
37 or place proceeded against and used in conducting or main-
38 taining such nuisance. If at the time of granting a temporary
39 injunction the same shall appear proper, the court or judge
40 granting the same may order the place proceeded against to be
41 closed and not used for any purpose until the final decision
42 of the case; *provided, however*, that the owner of any property
43 so closed or restrained may appear at any time before final
44 hearing and decision, and upon the payment of all costs in-
45 curred and upon the filing of a bond, with sureties to be
46 approved by the clerk, in the amount of the full value of the
47 property, to be ascertained by the court or judge, conditioned
48 that such owner will immediately abate the nuisance and pre-
49 vent the same from being established or kept until final decision

50 of the case, then and in that case the court or judge, if satisfied
51 of the good faith of the owner of the real or personal property
52 and of his innocence of any knowledge of the use of such prop-
53 erty as a nuisance, and that with reasonable care and diligence
54 such owner could not have known thereof, may deliver such
55 property to the owner thereof and vacate any order thereto-
56 fore made for the closing of said real property, or restraining
57 the removal or interference with such personal property. The
58 release of any real or personal property under the provision
59 of this section, however, shall not release it from any judgment,
60 lien, penalty or liability to which it may be subject by law.

Sec. 5. In such suit evidence of the general reputation
2 of the place or an admission or finding of guilt of any person
3 under the criminal laws against prostitution, lewdness, or
4 assignation at any such place shall be admissible for the pur-
5 pose of proving the existence of said nuisance and shall be
6 *prima facie* evidence of such nuisance and of knowledge of
7 and of acquiescence and participation therein on the part of
8 the person or persons charged with maintaining said nuisance
9 as herein defined. If the complaint is filed by a person who is a
10 citizen, resident or taxpayer of the county, it shall not be
11 dismissed except upon a sworn statement by the complainant
12 and his or its attorney, setting forth the reasons why the
13 action should be dismissed and the dismissal approved by
14 the prosecuting attorney in writing or in open court. If the
15 court or judge is of the opinion that the action ought not to be
16 dismissed, he may direct the prosecuting attorney to prosecute
17 said action to judgment at the expense of the county, and if
18 any such action is continued more than one term of court, any
19 person who is a citizen, resident or taxpayer of the county, or
20 the attorney general or the prosecuting attorney may be sub-
21 stituted for the complainant and prosecute said suit to final
22 decree. If the suit is brought by any person who is a citizen,
23 resident or taxpayer of the county and the court finds and
24 enters of record in the case that there were no reasonable
25 grounds or cause for said suit, the costs may be taxed to such
26 person. If the existence of the nuisance be established upon
27 the trial, a decree shall be entered which shall perpetually
28 enjoin the defendants and any other person or persons from
29 further maintaining the nuisance at the place complained of
30 and the defendants from maintaining such nuisance elsewhere
31 within the county.

Sec. 6. If the existence of such nuisance be admitted or
2 established in a suit as provided in this act, an order of abate-
3 ment shall be entered as a part of the decree in the case, which
4 order shall direct the removal from the place of all personal
5 property and contents used in conducting the nuisance, and
6 not already released under authority of the court as provided
7 in section four, and shall direct the sale of such thereof as
8 belongs to the defendants notified or appearing in the manner
9 provided for the sale of personal property under execution.
10 Such orders shall also require the renewal for one year of
11 any bond furnished by the owner of the real property as
12 provided in section four, or, if not so furnished shall continue
13 for one year any closing order issued at the time of granting
14 the temporary injunction, or, if no such closing order was
15 then issued, shall include an order directing the effectual
16 closing of the place against its use for any purpose, and so
17 keeping it closed for a period of one year unless sooner
18 released; *provided, however,* that the owner of any place so
19 closed and not released under bond as hereinbefore provided
20 may then or thereafter appear and obtain such release in the
21 manner and upon fulfilling the requirements as hereinbefore
22 provided. The release of the property under the provisions of
23 this section shall not release it from any judgment, lien, pen-
24 alty, or liability to which it may be subject by law. Owners of
25 unsold personal property and contents so seized shall appear
26 and claim the same within ten days after such order of abate-
27 ment is made and if it has not been proved to the satisfaction
28 of the court that such owner had knowledge of said use thereof,
29 or, that with reasonable care and diligence he could not have
30 known thereof, such unsold personal property and contents
31 shall be delivered to the owner, otherwise it shall be sold as
32 hereinbefore provided. If any person shall break and enter
33 or use any place so directed to be closed, he shall be punished
34 as for contempt as provided hereinafter, in addition to any
35 other penalties imposed by law. For removing and selling
36 personal property and contents, the sheriff shall be entitled
37 to charge and receive the same fees as he would for levying upon
38 and selling like property on execution; and for closing the place
39 and keeping it closed, a reasonable sum shall be allowed by the
40 court.

Sec. 7. In case the existence of such nuisance is established
2 in a criminal proceeding in a court not having equitable

3 jurisdiction, it shall be the duty of the prosecuting attorney to
4 proceed promptly under this act to enforce the provisions and
5 penalties thereof, and the finding of the defendant guilty in
6 such criminal proceedings of any offense herein declared to be
7 a nuisance, unless reversed or set aside, shall be conclusive
8 as against such defendant as to the existence of the nuisance.
9 The proceeds of the sale of the personal property, as provided
10 in the preceding section, shall be applied in payment of the
11 costs of the suit and abatement including the complainant's
12 costs, or so much of such proceeds as may be necessary, except
13 as hereinafter provided.

Sec. 8. In case of the violation of any injunction or closing
2 order be granted under the provisions of this act, or the com-
3 mission of any contempt of court in proceedings under this
4 act, the court, or, in vacation, a judge thereof, may summarily
5 try and punish the offender. The proceedings shall conform
6 to the practice in other suits in equity for violations of injunc-
7 tions, and proceedings for contempt of court. The trial may
8 be had upon affidavits or either party may demand the produc-
9 tion and oral examination of the witnesses. A party found
10 guilty of contempt under the provisions of this act shall be
11 punished by a fine of not less than one hundred nor more than
12 one thousand dollars or by imprisonment in the county jail
13 not more than six months, or by both such fine and imprison-
14 ment.

Sec. 9. Whenever a permanent injunction is granted
2 against any person or persons for maintaining a nuisance as
3 herein defined, there shall be imposed upon said nuisance and
4 against the person or persons maintaining the same a tax of
5 three hundred dollars; *provided, however*, that such tax may
6 not be imposed upon the personal property or against the owner
7 or owners thereof who have proven innocence as hereinbefore
8 provided, or upon the real property or against the owner or
9 owners thereof who shall show to the satisfaction of the court
10 or judge thereof at the time of the granting of the permanent
11 injunction, that he or they have in good faith permanently
12 abated the nuisance complained of. The imposition of said
13 tax shall be made by the court as a part of the proceedings
14 and the clerk of said court shall make and certify a return of
15 the imposition of said tax thereon to the county assessor, who
16 shall enter the same as a tax upon the property and against

17 the persons upon which or whom the lien was imposed, as a
18 proper tax and charge upon the said real or personal property,
19 when making up his assessments for the next ensuing year,
20 unless the same shall have been paid before said books are
21 made up; and the same shall be and remain a perpetual lien
22 upon all property, both personal and real, used for the pur-
23 poses of maintaining said nuisance except as herein excepted
24 until fully paid. The payment of said tax shall not relieve
25 the persons or property from any other taxes provided by law.
26 The provisions of the laws relating to the collection of taxes
27 in this state, the delinquency thereof, and sale of property for
28 taxes shall govern in the collection of the tax herein prescribed
29 in so far as the same are applicable; and the said tax collected
30 shall be applied in payment of any deficiency in the costs of
31 the action and abatement on behalf of the state to the extent
32 of such deficiency after the application thereto of the proceeds
33 of the sale of personal property as hereinbefore provided, and
34 the remainder of said tax together with the unexpended portion
35 of the proceeds of personal property shall be paid into the
36 county treasury, except that ten per cent of the amount of
37 the whole tax collected and of the whole proceeds of the sale
38 of said personal property as provided in this act shall be paid
39 by the sheriff to the attorney representing the state in the
40 injunction action at the time of final judgment.

Sec. 10. When such nuisance has been found to exist under
2 any equity proceedings as in this act provided, and the owner
3 or agent of such place whereon the same has been found to
4 exist was not a party to such proceedings and has not appeared
5 therein, the said tax of three hundred dollars shall, nevertheless,
6 be imposed against the persons served or appearing and against
7 the property as in this act set forth. But no such tax
8 shall be certified to the assessor or enforced against such
9 property, unless the owner thereof shall have appeared therein
10 or shall be served with summons or notice therein, and the pro-
11 visions of existing laws regarding the service of process shall
12 be applied to service in proceedings under this act. The per-
13 son in whose name the real estate affected by the action stands
14 on the land books of the county for purposes of taxation shall
15 be presumed to be the owner thereof, and in case of unknown
16 persons having or claiming any ownership, right, title, or
17 interest on property affected by the action, such may be made

18 parties to the action by designating them in the summons and
 19 complaint as "all other persons unknown claiming any owner-
 20 ship, right, title, or interest in the property affected by the
 21 action" and service thereon be had by publishing such sum-
 22 mons in the manner prescribed by law.

Sec. 11. Should any provision or section of this act be held
 2 unconstitutional, such fact shall not be held to invalidate the
 3 other provisions and sections thereof.

CHAPTER 20

(Senate Bill No. 260—By Mr. Kee)

AN ACT to create and establish a state board of chiropractic examiners, to provide for the appointment of members of same, to authorize and regulate the practice of chiropractic, to provide for the licensing and examination of chiropractors, to establish rules and regulations governing said board, including the rules and regulations of examinations, to establish and define the duties, powers and privileges of chiropractors, to provide for the charging of examination fees, and to fix penalties for the practice of chiropractic without license, and for the violation of any other provision in this act contained.

[Passed April 15, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

<p>Sec. 1. State board of chiropractors created. 2. Application to state health council; qualifications. 3. Certificate of training. 4. Grounds for refusal or revocation of license. 5. Those entitled to practice. 6. Chiropractic defined. 7. Mechanical devices prohibited. 8. Limitations of practice. 9. License necessary. 10. Medical part of examination. 11. Chiropractic part of examination;</p>	<p>Sec. grades. 12. License without examination; eligibility to examination. 13. Title. 14. Fees for examination. 15. Regulations; testimony of chiropractors. 16. Reciprocal licenses, other states. 17. No fees payable out of workmen's compensation fund. 18. Fraudulent practice; penalty; proceedings. 19. Duties of prosecuting attorneys. 20. Repealing conflicting acts.</p>
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Be it enacted by the Legislature of West Virginia:

That a state board of chiropractic examiners be created, and their powers and duties be defined as follows:

Section 1. The state health council with the addition of two
 2 chiropractors to be appointed to said council by the governor,
 3 in a manner hereinafter to be defined, shall constitute the chiro-
 4 practic board of examiners for the examination only of appli-
 5 cants to practice chiropractic.

5a The governor shall appoint two resident course graduated
6 practicing chiropractors of integrity and ability as members of
7 the state health council, one for a term of four years, and one
8 for a term of two years, and bi-annually thereafter shall ap-
9 point one chiropractor to said council for a term of four years.
10 The governor shall also fill vacancies caused by death or other-
11 wise as soon as practicable after the occurrence of such vacancy.

Sec. 2. Any person wishing to practice chiropractic in this
2 state shall make application to the secretary of the state health
3 council. Each applicant shall be a graduate of a chiropractic
4 school or college recognized by the American Chiroprac-
5 tic Association which teaches a resident course of at least
6 three calendar years of eight months each, requiring active
7 attendance upon same, and must be a graduate of a four-
8 year course commissioned high school or have an education
9 equal to same, and shall have attended an academic college
10 equal in standing to the West Virginia university for at least
11 two years, as preliminary education.

Sec. 3. Each application shall be accompanied by a certificate
2 from the school attended by the applicant, which certificate
3 shall set forth in full the training of said applicant, showing his
4 studies and the length of his clinical practice. The state health
5 council shall require of any and all applicants, satisfactory evi-
6 dence of good moral character.

Sec. 4. The state health council may refuse to grant or may
2 revoke a license to practice chiropractic in this state, upon any
3 of the following grounds, to-wit: The employment of fraud or
4 deception in applying for a license or in passing an examination
5 provided for in this act; the practice of chiropractic under a
6 false or an assumed name or the impersonation of another prac-
7 titioner of like or different name; the conviction of a crime in-
8 volving moral turpitude or habitual intemperance in the use of
9 ardent spirits, narcotics or stimulants to such an extent as to
10 incapacitate him or her for the full performance of his or her
11 duties. Any person who is a licentiate, or who is an applicant
12 for a license to practice chiropractic against whom any of the
13 foregoing grounds for revoking or refusing a license is pre-
14 sented to said health council with a view to having the said
15 council revoke or refuse to grant a license, shall be furnished
16 with a copy of the complaint, and shall have a hearing before
17 said council in person or by attorney, or by both, and witnesses

18 may be examined by said council respecting the guilt or inno-
19 cence of said accused. In addition to the above stated grounds,
20 the health council shall revoke or refuse to grant a license to
21 anyone practicing under the guise of chiropractic, any health
22 science or mode of healing other than chiropractic as defined
23 in this act.

Sec. 5. Every chiropractor who has complied with the pro-
2 visions of this act shall thereupon be entitled to practice chiro-
3 practic in this state.

Sec. 6. The practice of chiropractic is hereby defined as
2 physical diagnosis, nerve tracing, palpation of the segments of
3 the spinal column, the adjustment of misaligned segments of the
4 spinal column to their normal position for the purpose of re-
5 lieving pressure upon spinal nerves.

Sec. 7. The use of any mechanical devices of any kind or any
2 agency whatsoever, giving chiropractic treatment other than
3 the human hands is prohibited in the practice of chiropractic,
4 excepting the use of adjusting tables, and the employment of
5 the X-ray which may be used only for the purpose of making
6 pictures of the spine or segments of the spinal column and only
7 then by those who have completed the course and are in pos-
8 session of a diploma in spinography, issued by a regularly char-
9 tered school of chiropractic teaching spinography.

Sec. 8. A chiropractor shall not be permitted to prescribe
2 for any person any medicine or drugs now or hereafter included
3 in materia medica, or to administer any such medicine or drugs;
4 and no chiropractor shall perform any minor or major surgery,
5 practice obstetrics or practice osteopathy unless duly licensed
6 to do so by laws of this state in addition to his license to prac-
7 tice chiropractic.

Sec. 9. It shall be unlawful for any person to practice chiro-
2 practic in this state without having first obtained a license, or
3 after revocation and before renewal of such license as provided
4 in this act. But nothing in this act contained shall be con-
5 strued as imposing any penalty on any person engaged in the
6 practice of chiropractic in this state before the first day of
7 January, one thousand nine hundred and twenty-five, for prac-
8 ticing chiropractic between the date of the passage of this act
9 and the first meeting of the state health council thereafter, it
10 being here required that said state health council shall convene
11 within four months from and after the passage of this act for

12 the purpose, with its other duties, of holding an examination of
13 chiropractic applicants, as provided for in this act.

Sec. 10. Applicants to practice chiropractic in this state shall
2 be examined by the medical physicians who are members of the
3 state health council in the following subjects: anatomy, his-
4 tology, physiology, pathology, symptomatology, physical diag-
5 nosis, hygiene, sanitation, chemistry and bacteriology.

Sec. 11. The chiropractic members of the state health coun-
2 cil shall give an examination in the following subjects: chiro-
3 practic philosophy, chiropractic analysis, nerve tracing, palpa-
4 tion and the art of adjusting. All applicants will be required
5 to secure an average grade of eighty per cent in all subjects;
6 *provided, however*, that sixty-five per cent shall be the minimum
7 grade in any subject.

Sec. 12. All chiropractors who have been in actual practice
2 for five years prior to the passage of this act, three years of
3 which shall have been in this state, who are residents of
4 this state, are of good moral character, and who are
4a graduates of resident course chiropractic schools or
5 colleges giving a course of not less than two years of
6 six months each, and all chiropractors who have been in actual
7 practice in this state for a period of one year or more prior to
8 the passage of this act, who are residents of this state, are of
9 good moral character, and who are graduates of resident course
10 chiropractic schools or colleges giving a course of not less than
11 three years of six months each, all of whom shall have a diploma
12 from a first class high school as recognized by the state board
13 of education of West Virginia, or have an education equal to
14 the same, shall be granted a license to practice chiropractic in
15 this state without examination. All other chiropractors prac-
16 ticing in this state who are graduates of residence course chiro-
17 practic schools or colleges shall be eligible to take the examina-
18 tion as provided in this act. Each applicant shall also present
19 to the health council a certificate of good moral character signed
20 by two other reputable citizens of the magisterial district within
21 which such applicant resides and practices. Upon presentation
22 of such evidence of good faith to the public health council at
23 the first meeting thereof after the passage of this act, said coun-
24 cil shall issue to applicant a license to practice chiropractic in
25 the state of West Virginia. All others practicing chiropractic
26 in this state, who are residents of the state, and of good moral
27 character, and graduated from a regularly chartered resident

28 course chiropractic school or college and who have been prac-
29 ticing for a period of less than five years, or who have practiced
30 chiropractic for a period of five years, but less than three years
31 of which time has been devoted to the practice thereof in the
32 state of West Virginia, shall be eligible to take the examination
33 as provided in this act.

Sec. 13. The title of a chiropractor shall be doctor of chiro-
2 practic and shall be designated by the letters D. C.

Sec. 14. Fees for examinations and issuing licenses to doc-
2 tors of chiropractic shall be the same as in the case of the med-
3 ical practitioners.

Sec. 15. Doctors of chiropractic shall observe and be sub-
2 ject to all state and municipal regulation in regard to the con-
3 trol of contagious and infectious diseases, or to any and all
4 other matters pertaining to public health, and shall report to
5 the public health officer in the same manner as is required of
6 other practitioners. It shall further be the duty of doctors of
7 chiropractic in this state to report to the registrar of vital sta-
8 tistics of his magisterial district within ten days of the occur-
9 rence of any death which may come under his or her super-
10 vision, with a certificate of the cause of death and such co-rela-
11 tive facts as may be at the time required by the state department
12 of health.

13 No licensed practitioner of chiropractic as provided by the
14 provisions of this act, shall be permitted to qualify as a compe-
15 tent witness in so far as medical testimony or medical facts may
16 be concerned, in any personal accident or injury suit or action,
17 in any court in this state.

Sec. 16. Persons licensed to practice chiropractic under the
2 laws of any other state having requirements equivalent to those
3 of this act, and extending like privileges to practitioners of this
4 state may in the discretion of the state health council, be li-
5 censed to practice in this state without examination.

Sec. 17. No licensed practitioner of chiropractic in this or
2 any other state as provided by the provisions of this act, shall
3 be paid any fee out of the Workmen's Compensation Fund or
4 any other fund administered under the provisions of the Work-
5 men's Compensation Act for services rendered an injured work-
6 man whose employer has complied with the provisions of the
7 Workmen's Compensation Act.

Sec. 18. Any person who shall attempt to practice chiro-
2 practic, or any person who shall buy, sell, or fraudulently ob-

tain any diplomas or license to practice chiropractic, whether recorded or not, or who shall use the title to induce belief that he or she is engaged in the practice of chiropractic without fully further complying with the provisions of this act, or any person who shall violate any other of the provisions of this act. or who shall attempt to practice any of the arts of healing the sick by the practice of medicine or surgery in any of its branches, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or both, at the discretion of the court, and each day any person shall so violate any provision of this act shall constitute a separate offense. Proceedings under this act may be brought before the mayor of any town or city, justice of the peace, circuit, intermediate or criminal courts in the town or city, magisterial district or county in which the violation of this act is alleged to have occurred. If brought before a justice of the peace or mayor of any town or city, the justice of the peace or mayor shall issue his warrant directed to the sheriff or any constable of his county requiring him to arrest and bring such person before any justice of the county and thereupon the same proceedings shall be had as in other cases of persons charged with an offense under chapter one hundred and fifty-six of the code of West Virginia.

Sec. 19. It shall be the duty of the several prosecuting attorneys of this state to enforce the provisions of this act, and it shall be the duty of the secretary of the state health council, under the direction of said council, to aid said attorneys in such enforcement.

Sec. 20. All acts and parts of acts, in conflict herewith, insofar as they are in such conflict, are hereby repealed.

CHAPTER 21

(House Bill No. 164—By Mr. Brown)

AN ACT to amend and re-enact section eleven of chapter twelve of the acts of the extra session of the legislature of West Virginia of one thousand nine hundred and seven, and to add section nineteen thereto, pertaining to the practice of pharmacy.

[Passed April 14, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 11. Licensed pharmacist, qualifications; licensed assistant pharmacist, qualifications.	Sec. 19.	Unlawful to use title, when; penalty.
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Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twelve, acts of the extra session of one thousand nine hundred and seven, be amended and re-enacted so as to read as follows, and that section nineteen be added thereto, all relating to pharmacy.

Section 11. In order to be hereafter licensed as a pharmacist 2 within the meaning of this act, an applicant shall be a citizen of 3 the United States, not less than twenty-one years of age and 4 shall present to the board of pharmacy satisfactory evidence 5 that he (or she) is a graduate of a recognized school of pharmacy 6 as defined by the board of pharmacy, and in addition thereto 7 he (or she) shall have had at least two years practical experi- 8 ence in a drug store under the instruction and supervision of 9 a registered pharmacist and shall pass a satisfactory examina- 10 tion by or under the direction of the board of pharmacy. In 11 order to be licensed as an assistant pharmacist within the mean- 12 ing of this act an applicant shall be not less than eighteen years 13 of age and shall have attended and successfully passed the 14 final examinations of at least one year in a recognized col- 15 lege of pharmacy as defined by the board of pharmacy and 16 in addition thereto shall have had at least two years' experi- 17 ence in a drug store under the instruction and supervision of 18 a registered pharmacist and shall pass a satisfactory examin- 19 ation by or under the direction of the board of pharmacy; 20 *provided, however,* that in the case of a person who has at- 21 tended a recognized school of pharmacy, the actual time of 22 attending such school of pharmacy may be deducted from the 23 time of experience required of pharmacists, but in no case 24 shall less than two years' experience in a drug store under 25 the instruction and supervision of a registered pharmacist be 26 required for registration as a licensed pharmacist.

Sec. 19. It shall be unlawful for any person not legally 2 licensed as a pharmacist, unless he has in his employ a regis- 3 tered pharmacist, to take, use, or exhibit the title of pharmacist 4 or licensed or registered pharmacist, or the title of druggist 5 or apothecary, or any other title or description of like import,

6 or to label, mark, or advertise his or any other place of business
 7 as a 'drug store' or by the use of the word 'drugs' or any other
 8 compound or derivative of the same, or by any other word or
 9 sign indicating or intended to indicate that drugs or pharmaceu-
 10 tical supplies are either sold or offered for sale. And it shall
 11 be unlawful for any person not legally licensed as an assistant
 12 pharmacist to take, use or exhibit the title of assistant phar-
 13 macist, or any title or description of like import.

14 Any person who shall violate any provision of this section
 15 shall be guilty of a misdemeanor and upon conviction thereof
 16 shall for each such offense be confined in the county jail not to
 17 exceed six months, or fined not exceeding two hundred dollars,
 18 or both so fined and imprisoned at the discretion of the court,
 19 and each day such violation shall continue shall be deemed a
 20 separate offense.

CHAPTER 22

(House Bill No. 217—By Miss Jones)

AN ACT to provide for the instruction, examination, licensing and registration of midwives.

[Passed April 15, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.	Sec.
1. Midwives; instruction, examination, licensing and registration of; by whom conducted. 2. Definition. 3. Midwifery, who shall practice; shall be licensed; qualifications. 4. Registration required. 5. License for current year only; how renewed.	6. Forbidden to practice. in what cases. 7. Shall conform to rules and regulations; license revoked for cause; roster of midwives; license may be withheld, when. 8. Who may practice without examination.

Be it enacted by the Legislature of West Virginia:

Section 1. That the state department of health through the
 2 state health commissioner or a member of the department des-
 3 igned by him shall have charge of the instruction, examina-
 4 tion, licensing and registration of midwives; shall prepare the
 5 necessary instructions, forms and blanks to be used in this
 6 work; shall through its field agents and other representatives,
 7 visit from time to time the different parts of the state for the
 8 purpose of instructing and examining midwives, either indi-
 9 vidually or in groups; and shall procure the faithful registra-
 10 tion of each midwife with the local registrar of vital statistics.

Sec. 2. For the purposes of this act, a midwife shall be any person at least twenty-one years of age, other than a physician, who shall attend or agree to attend any woman at or during child-birth, and who shall accept any compensation or other remuneration for her services; *provided*, that this law shall not prevent a neighbor or friend from rendering assistance in such cases in an emergency.

Sec. 3. On and after January first, one thousand nine hundred and twenty-six, no person other than a physician shall practice midwifery in the state of West Virginia unless such person shall be duly licensed to practice midwifery as herein after provided.

Each and every person, other than a physician, wishing to practice midwifery shall make written application to the state department of health for a license to practice midwifery, said application to be sworn to before a notary public and to be accompanied by a registration fee of one dollar. Every applicant for a license to practice midwifery must possess the following qualifications:

(a) Be not less than twenty-one years of age;

(b) Be able to read and write;

(c) Be clean and constantly show evidence, in general appearance and in their homes, of habits of cleanliness;

(d) Either

(1) Possess a diploma from a school for midwives, recognized by the state commissioner of health; or

(2) Have attended, under the instruction of a duly licensed and registered physician, not less than five mothers and newborn infants during lying-in periods of at least ten days each, and shall present a written statement from said physician or physicians that she has received such instruction in said five cases, with the name, date and address of each case, and establishing the fact that she is reasonably skillful and competent, to the satisfaction of the state commissioner of health; and

(e) Present evidence satisfactory to the state department of health of good moral character, and good health and free from communicable disease, in such form as the state commissioner of health or such person designated by him by rule or regulation may prescribe.

Sec. 4. On and after July one, one thousand nine hundred and twenty-five, every licensed midwife shall register her name,

3 address and license number with the local registrar of vital sta-
4-5 tistics of the district wherein she resides within ten
6 days after the issuance of such license and after any change in
7 her address.

Sec. 5. Unless revoked, every license to practice midwifery
2 issued by the state department of health shall permit the holder
3 thereof to practice midwifery only during the current calendar
4 year being from January first in any one year to December
5 thirty-first next succeeding.

6 In December application for renewal of license for the en-
7 suing year shall be made to the state department of health.

8 The state commissioner of health is hereby authorized and em-
9 powered to make such rules and regulations as he may deem
10 necessary to carry out the provisions of this act.

Sec. 6. A duly licensed and registered midwife may practice
2 midwifery in cases of normal labor. In cases where delivery
3 has not been accomplished in twelve hours, a physician shall
4 be summoned at once.

5 All midwives are forbidden to:

6 (a) Make vaginal examinations.

7 (b) Use instruments of any kind to aid delivery.

8 (c) Assist labor by any artificial, forcible or mechanical
9 means.

10 (d) Administer, advise, prescribe or employ dangerous or
11 poisonous drugs.

Sec. 7. All midwives to whom licenses shall be issued pur-
2 suant to the provisions of this act, shall conform to all rules
3 and regulations of the state department of health, the pro-
4 visions of the sanitary code enacted by the public health coun-
5 cil, and the provisions of the public health law of the state of
6 West Virginia.

7 The state department of health may revoke the license to
8 practice midwifery issued pursuant to the provisions of this
9 act, for cause, after having given the midwife whose license is
10 sought to be revoked, an opportunity to be heard.

11 The state commissioner of health is authorized to furnish to
12 local health officers a roster of all midwives practicing within
13 their jurisdiction and to require of all local health officers a re-
14 port as to the conduct of the several midwives who may be prac-
15 ticing within the jurisdiction of a local health officer, and it
16 shall be the duty of such local health officers to report truth-
17 fully any and all matters pertaining to the conduct of any li-

18 censed and registered midwife practicing as such in the juris-
 19 diction of any local health officer. All reports of such local
 20 health officers respecting the conduct of such midwives, and all
 21 reports of any employees of the state department of health re-
 22 lating to the conduct and deportment of midwives so licensed
 23 as provided for in this act, made in the course of and as part
 24 of the official duties of such employees of the state department
 25 of health, shall be deemed *prima facie* evidence of the facts de-
 26 tailed in said report, and further be deemed sufficient to jus-
 27 tify the action of the state department of health in refusing to
 28 issue any license to an applicant therefor, where the informa-
 29 tion as detailed in such reports of any local health officer or
 30 the reports of any employee of the state department of health
 31 respecting the conduct of any midwife in his judgment justi-
 32 fies the withholding of such a license to such an applicant.

Sec. 8. All midwives practicing midwifery in this state for
 2 three years prior to the enactment of this act, who are resi-
 3 dents of this state, of good moral character, clean in their
 4 habits and free from infectious diseases, after presenting letters
 5 of recommendation from two physicians of good standing, or
 6 two reputable citizens of this state by whom they have been
 7 employed, shall be given a certificate by the state board of
 8 health, permitting them to practice midwifery in this state,
 9 without an examination.

CHAPTER 23

(House Bill No. 382—By Miss Jones)

AN ACT to amend and re-enact section twenty-nine-d of chapter one hundred and fifty of Barnes' code of one thousand nine hundred and twenty-three, relating to the examination and registration of nurses.

[Passed April 20, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

29-d. Board of examination of nurses: governor shall appoint; qualifications; tenure; how removed.
 (2) Meetings; organization; quorum; rules and regulations.
 (3) Register of nurses; what to show; inspection; complaint; prosecution.
 (4) Office and assistants; salary; report, what to contain.
 (5) Board meetings; administration.
 (6) Application and fees.
 (7) Examination of nurses; qualifications; branches.
 (8) Accredited schools; require-

Sec.

ments.
 (9) When certificate may issue without examination.
 (10) Nurses under state law; examination not required.
 (11) Title, unlawful to assume.
 (12) Act does not apply to gratuitous nursing.
 (13) Penalty.
 (14) May revoke certificate, for what causes.
 (15) May revoke certificate for training school, when: inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine-d of chapter one hundred and fifty of Barnes' code of one thousand nine hundred and twenty-three, relating to the examination and registration of nurses, be amended and re-enacted so as to read as follows:

Section 29-d. (1) The governor within sixty days from 2 the passage of this act shall appoint a board of examiners 3 for nurses to be composed of five members, three of whom 4 shall be registered nurses who have graduated from dif- 5 ferent reputable schools for nurses giving at least a two 6 year course of general training, who have had five years' 7 experience in professional nursing of the sick and who 8 have had at least two years' experience as superin- 9 tendent of an accredited training school for nurses; 10 and two members of the board shall be physicians 11 licensed to practice medicine in this state who have had at 12 least three years' experience as instructor of nurses in a train- 13 ing school for nurses. The governor shall designate one of these 14 members to hold office for one year, two for two years, and two 15 for three years, or until their successors are appointed; and 16 annually thereafter upon the expiration of the term of the 17 person or persons so appointed, the governor shall appoint a 18 successor or successors as aforesaid, to hold office for a term of 19 three years.

20 The governor shall have a right to remove any member of 21 said board for neglect of duty or for any other cause deemed 22 by him to be sufficient, and shall have a right to fill vacancies 23 occurring in said board from time to time in the same manner 24 as original appointments are provided for herein. All vacancies 25 occurring in the board shall be filled by the governor.

(2) The board of examiners for nurses, as soon as organ- 2 ized, and annually thereafter in the month of June, shall meet 3 and shall elect from their members a president and treasurer, 4 and shall elect a secretary who shall be a graduate nurse regis- 5 tered in this state, and who shall act as inspector of schools for 6 nurses in the state. The first meeting of the board provided 7 for herein shall be held in the City of Charleston. Subsequent 8 meetings shall be held at such places as the board may de- 9 termine. Three members of the board shall constitute a quorum, 10 and special meetings shall be called by the secretary upon the 11 written request of any two members, and said board shall have

12 the right to adopt such rules and regulations and to frame such
13 by-laws as may be necessary for its government not in conflict
14 with the laws of this state.

(3) The board of examiners for nurses shall have a seal
2 and the secretary shall keep a record of all the proceedings
3 of said board, including a register of the names of all nurses
4 and schools for nurses registered under this act. The register
5 of nurses shall show the name, age and place of birth of each
6 nurse and such other information as the board may determine,
7 and shall be open to public scrutiny at all reasonable times.
8 The secretary shall visit and on behalf of the board shall in-
9 spect all of the schools for nurses registered hereunder, and
10 shall investigate all cases wherein a violation of any of the
11 provisions of this act is suspected, and upon probable cause,
12 shall lodge complaint with the board or the proper prosecuting
13 attorney and shall do all that is proper to be done in the prose-
14 cution of any complaint so filed.

(4) The board shall furnish the secretary a headquarters,
2 and shall provide such office equipment and clerical assistance
3 as the duties of the office may require. The secretary shall re-
4 ceive a salary to be fixed by the board not to exceed two thou-
5 sand four hundred dollars per annum, also traveling and other
6 expenses incurred in the discharge of her official duties. Said ex-
7 penses and salaries shall be paid from a fund maintained by the
8 fees received by the board under the provisions of this act.

9 The other members of the board shall receive four dollars for
10 each day actually engaged in attendance upon the meetings of
11 said board, and all necessary expenses incurred while looking
12 after the business of the board.

13 The board shall make a report to the governor, on or before
14 the first day of January of each year in which the legislature
15 meets in regular session, which report shall cover the entire
16 transactions thereof during the preceding biennial period, in-
17 cluding all receipts and disbursements, together with a full list
18 of names of nurses registered under the provisions of this act,
19 and such schools for nurses as have been accredited by said
20 board.

(5) It shall be the duty of the board to meet for the
2 purpose of holding examinations not less than twice in each
3 year at a time and place to be fixed by the board, and the board
4 may adopt rules for the government and examination of appli-

5 cents for registration in accordance with the provisions of this
6 act. Notice of the meetings for examination shall be published
7 in at least two newspapers of general circulation in the state
8 and at least one nursing journal and shall be mailed to every
9 registered school for nurses in the state at least thirty days
10 prior to the meeting. At such meetings it shall be the duty of
11 the board to examine all applicants that meet the requirements
12 of this act, and to issue to each duly qualified applicant who
13 shall have complied with the provisions and passed the exami-
14 nation, a certificate of registration together with a copy thereof
15 for filing in the office of the clerk of the county court of the
16 county in which the holder of the certificate resides. No such
17 certificate shall be considered in force or effect for the purpose
18 of this act unless the person to whom it is issued shall cause
19 the copy thereof to be filed with the county clerk of the county
20 in which such person resides, accompanied with an affidavit of
21 his or her identity as the person to whom the same was issued,
22 and stating in such his or her place of residence. The county
23 clerk shall charge fifty cents for registering such copy of cer-
24 tificate together with affidavit. When a registered nurse moves
25 his or her place of residence from one county in the state to
26 another he or she shall secure from the board of examiners for
27 nurses another copy of his or her registration certificate and
28 shall file the same with the county clerk of the county to which
29 he or she removes. For recording such certificate the holder
30 shall pay to the clerk of the county court the sum of fifty cents.

(6) Every applicant for examination and registration as
2 a nurse hereunder shall accompany his or her application with
3 a fee of ten dollars, payable to the treasurer of the
4 board of examiners for nurses; the application shall be in the
5 form prescribed by the board and shall be lodged with the
6 secretary of the board not less than ten days prior to the date
7 set for the examination. The fee of ten dollars shall
8 not in any case be returnable; but an applicant who fails to
9 pass an examination satisfactory to the board, and is therefore
10 refused registration is entitled, within one year after such re-
11 fusar, with the payment of any additional fee, to a re-examina-
12 tion at a meeting of the board called for the examination of
13 applicants.

(7) With the exception of nurses registered in other
2 states, as hereinafter provided, no person shall receive a cer-

3 tificate as a registered nurse without first having been examined
4 as to his or her training and fitness by the board of examiners
5 for nurses. The applicant for examination must be at least
6 twenty-one years of age, of good moral character, trustworthy,
7 honest and not addicted to the use of intoxicants or narcotics
8 and must possess a diploma of graduation from a school for
9 nurses registered and accredited by the board of examiners for
10 nurses; *provided, however*, that the applicant shall be eligible
11 for examination if he or she has so far completed his or her
12 training in an accredited school, that he or she is to be duly
13 graduated therefrom within three months from and after the
14 date of the examination. In the latter case no certificate is to
15 be issued until the diploma, duly attested, is presented to the
16 board and found satisfactory.

17 The examination of applicants shall be of such character as
18 to determine their qualifications and fitness to practice pro-
19 fessional nursing as contemplated by this act, and shall include
20 the following subjects: Theory and practice of nursing, anatomy
21 and physiology; bacteriology and hygiene; materia medica;
22 chemistry; history of nursing; medical nursing including gen-
23 eral communicable, children's nervous and mental diseases,
24 surgical nursing including general, orthopedic, gynecology; eye,
25 ear, nose and throat, obstetrics, dietetics and cooking; bandaging
26 and first aid; ethics of nursing and in the case of male appli-
27 cants, genito-urinary diseases.

(8) An accredited school for nurses within the meaning of
2 this act is defined to be one connected with a hospital having a
3 daily average of at least fifteen patients; which requires its
4 pupil nurses in training to have at least one year of high school
5 education, or that such pupils shall have successfully passed an
6 examination, under the supervision of the superintendent of
7 schools of the county in which the training school is situated,
8 or the principal of the high school in the town or city in which
9 the training school is situated, in the subjects prescribed for
10 the first year's study in a standard four year high school of the
11 state; which does not send out its pupil nurses for private
12 duty, which employs regularly at least one registered nurse;
13 and which provides for its pupil nurses a three years' con-
14 tinuous theoretical and practical course of training in bedside
15 nursing, except for a vacation not to exceed four weeks each
16 year, and a substantial course of training in each of the subjects

17 named in the preceding paragraph upon which applicants for
18 certificates are to be examined by the board of examiners for
19 nurses. Practical bedside nursing shall include the care of
20 medical and surgical patients, male and female, obstetrical
21 patients and children.

22 Schools may only give advance credit to pupils transferring
23 from accredited schools, and then only upon a certificate from
24 the school from which the pupil is transferred evidencing the
25 good standing of the pupil at the time of transfer. All of the
26 above provisions are subject to the exception, that if a school
27 for nurses is unable to give a full three years' course, but pro-
28 vides a two years' course and otherwise meets the requirement
29 of an accredited school, it may affiliate for a third year's training
30 with an accredited three year school which complements the
31 training of the first by supplying the courses which the first
32 lacks. An applicant who has completed a full three years'
33 course by attendance in two such affiliated schools may in the
34 board's discretion be treated as a graduate of an accredited
35 school. A hospital which gives training to pupil nurses along
36 special lines may under the supervision of the board be ac-
37 credited for its particular service as an affiliated school.

38 Any school for nurses to receive credit under this act shall
39 maintain accurate and current records showing in full the
40 theoretical and practical courses of instruction given to each
41 pupil; and shall maintain healthful and comfortable living con-
42 ditions for the pupils. Any school desiring to be accredited by
43 the board of examiners for nurses shall file an application with
44 the board therefor along with the information above required
45 and shall pay to the treasurer a fee of ten dollars,
46 therewith. Before a hospital training school can register as
47 an accredited training school it shall furnish to the board satis-
48 factory data concerning its location, equipment, accommoda-
49 tion, rooms, personnel of faculty, the names of the physicians,
50 surgeon and superintendent of nurses who are to be in direct
51 charge of the training school; the number of hours to be devoted
52 to lectures, quizzes, and laboratory work which shall not be less
53 than five hours per week for a period of not less than eight
54 months out of each year. Then, if in the opinion of the board,
55 the training school is in position and will be able to comply with
56 the requirements of this act, there shall be issued a certificate
57 to said training school recognizing it as an accredited training

58 school for nurses and capable of giving the pupil the benefit of
59 the full three year course or a two year course to be completed
60 by affiliating with a training school that is recognized by the
61 board as being capable of giving the full three year course as
62 required. If in the opinion of the board the said school does
63 not meet with the requirements of this act, the board shall re-
64 fuse said certificate.

(9) The board of examiners for nurses may, without
2 examination, issue a certificate to any applicant who shall fur-
3 nish satisfactory proof to the board that he or she is a duly
4 registered nurse in another state, or in the District of Columbia,
5 provided that the laws of such state or district require qualifi-
6 cations the equivalent of those required in the State of West
7 Virginia. Such applicant must further furnish satisfactory
8 evidence that he or she intends to reside and practice the pro-
9 fession of nursing in this state, and must make due application
10 to the board of examiners for nurses, filing therewith his or
11 her certificate from such other state, which certificate shall
12 contain a notation of recommendation to the board of examiners
13 for nurses of this state from corresponding board of such other
14 state, and such application must be accompanied with the pre-
15 scribed fee of ten dollars

(10) All persons to whom certificates of registration as
2 nurses have been issued under the laws of this state, prior to
3 the time this act shall take effect, shall be styled and known as
4 registered nurses, and shall come within the provisions of this
5 act and shall comply with the same but shall not be required
6 to undergo any new examination or obtain a new certificate of
7 registration as a nurse. Pupil nurses in training at the time
8 of the passage of this act shall be admitted to examination by
9 the board of examiners for nurses upon showing that they have
10 complied with the conditions prescribed by existing law.

(11) Any person who has received a certificate according
2 to the provisions of this act shall be styled and known as a
3 "registered nurse" and no other person shall assume such a
4 title, or use the abbreviation "R. N." or any other letters or
5 figures to indicate that he or she is a registered nurse; and no
6 other person who has not duly received a certificate from the
7 said board of examiners shall practice professional nursing with
8 the representation that he or she is a registered nurse, or shall
9 advertise to the public as a nurse, without stating that he or

10 she is not a registered nurse, and it shall be unlawful for any
11 drug store proprietor, physician, or other person to advertise
12 any person as a nurse, or to keep publicly the name of any
13 person upon a record or list of names of nurses, unless such
14 person has been duly granted a certificate to practice as a regis-
15 tered nurse within this state, or unless such advertisement,
16 record or list, shall state that such person or nurse is "not
17 registered".

(12) This act shall not be construed to affect or apply
2 to the gratuitous nursing of the sick by friends or members of
3 the family; and also, it shall not apply to so as to prevent any
4 person from nursing the sick for hire, who does not in any way
5 assume to be a registered nurse.

(13) Any person violating any of the provisions of this
2 act, or who shall wilfully make any false representation to the
3 board of examiners in applying for a certificate, shall be guilty
4 of a misdemeanor, and, upon conviction, shall be punished by a
5 fine of not less than twenty-five dollars, nor more than two
6 hundred and fifty dollars. It shall be the duty of the respective
7 prosecuting attorneys of this state to prosecute violations of
8 this act.

(14) The board of examiners for nurses may by unani-
2 mous vote revoke a certificate for the following reasons: dis-
3 honesty, gross incompetency, a habit rendering a nurse unsafe
4 to be entrusted with or unfit for the care of the sick; conduct
5 derogatory to the morals or standing of the profession of nursing
6 or any wilful fraud or misrepresentation practiced in procuring
7 such certificate. In complaints for violating the provisions of
8 this act the accused shall be furnished with a copy of the com-
9 plaint thirty days prior to a hearing before the board in
10 person or by an attorney; and any person after such revocation
11 of certificate who shall attempt to practice as a registered nurse
12 or use the abbreviation "R. N." shall be subject to the penalties
13 hereinbefore provided.

(15) The board may revoke a certificate of any training
2 school upon the failure of such training school to comply with
3 the requirements of this act. In all complaints of the violations
4 of this act, the accused shall be furnished with a copy of the
5 complaint thirty days prior to a hearing before the board.

All acts or parts of acts inconsistent with this act are hereby
repealed.

CHAPTER 24

(House Bill No. 474—By Mr. Holroyd)

AN ACT to prevent the issuance or sale of fraudulent diplomas or certificates of medical schools.

[Passed April 1, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Uttering fraudulent medical diplomas; a felony; penalty therefor.

Be it enacted by the Legislature of West Virginia:

That the issuance for the purpose of sale, barter or gift of a diploma or certificate to practice medicine in West Virginia shall be punishable as follows:

Section 1. Whoever shall make, issue or publish for the purpose of sale, barter or gift, a certificate, diploma or other writing or document falsely representing the holder or receiver thereof to be a graduate of any particular medical school, college or educational institution of medicine, and entitled to the powers, privileges or degrees thereby pretended to be conferred, or sells, disposes of, or offers to sell or dispose of such diploma, certificate, writing or document containing such false representation, or uses his name, or permits it to be used as a subscriber to such false and fictitious diploma certificate, writing or document, or engages in the practice of medicine or surgery under and by virtue of such fraudulent diploma, certificate, writing or document, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the state penitentiary for a period of not less than one year, nor more than three years, and in addition thereto shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars.

CHAPTER 25

(House Bill No. 654—By Mr. Thompson)

AN ACT to amend and re-enact section three-a of chapter ninety six of the acts of the legislature, one thousand nine hundred and nineteen, and being section three-a of chapter one hundred and fifty of Barnes' West Virginia code, annotated, one thousand nine hundred and twenty-three.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.
3-a. Full time health officer; levy;
health nurse; duties.

Be it enacted by the Legislature of West Virginia:

That section three-a of the acts of the legislature, one thousand nine hundred and nineteen, and being section three-a of chapter one hundred and fifty of Barnes' West Virginia code, annotated, one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 3-a. Any county court or municipal council shall have the power and authority to provide for a full-time health officer and the expenses of his administration, who shall give his entire time to the duties of his employment, and the general health and sanitation of his county or municipality, medical attendance upon the indigent of the county in the infirmary, and perform such duties in relation thereto as may be prescribed by order of the court or ordinance of the municipality duly entered; and may levy a county or municipal tax as the case may be for that purpose of not exceeding three cents on the hundred dollars valuation as shown by the last assessment for county or municipal taxes; and, may in any county or municipality wherein the county court or municipal council has not provided for a full-time health officer, provide for a full-time public health nurse and the expenses of her administration, define and prescribe her duties in connection with the general health of the county or municipality, by order of the court or ordinance of the municipality; and may levy a county or municipal tax as the case may be for that purpose of not exceeding two cents on the hundred dollars valuation, as shown by the last assessment for county or municipal taxes.

CHAPTER 26

(House Bill No. 309—By Mr. Sehon, by request)

AN ACT to regulate the sale of caustic poisons.

[Passed April 15, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.
1. Caustic poisons labelled; penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. After January first, one thousand nine hundred and twenty-six, it shall be unlawful to sell or expose for sale in this state concentrated lye or similar substance, unless the same be plainly labelled, in large legible letters, "caustic poison" and with skull and cross bones, both in red. Any person violating this act shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars.

CHAPTER 27

(Senate Bill No. 19—By Mr. Kee)

AN ACT to amend chapter eighty-four of the acts of one thousand nine hundred and twenty and session one thousand nine hundred and twenty-one, section 1-h, fixing the time of holding the circuit court for the eighth judicial circuit, composed of the counties of Mingo and Wyoming.

[Passed April 14, 1925; in effect from passage. Approved by the Governor April 18, 1925.]

Sec.

1. Terms of circuit court.

1-a. Terms of circuit court in Mingo

county; terms of circuit court in Wyoming county; repeal conflicting acts.

Be it enacted by the Legislature of West Virginia:

Section 1. That on and after the first Monday in May, one thousand nine hundred and twenty-five, the terms of the circuit court of the eighth judicial circuit shall commence and be held in each of said counties as follows:

Sec. 1-a. For the county of Mingo, on the third Monday in January, second Monday in April, first Monday in July and second Monday in November.

For the county of Wyoming, on the third Monday in February, third Monday in May and the second Monday in October.

All acts and parts of acts in conflict or inconsistent herewith are hereby repealed.

CHAPTER 28

(Senate Bill No. 197—By Mr. Hugus)

AN ACT to amend and re-enact section one, chapter one hundred and thirty-five, of the code, as last amended and re-enacted by

chapter one hundred and sixty-nine of the acts of one thousand nine hundred and fifteen, relating to the jurisdiction of the supreme court of appeals and regulating the manner and method of appeals thereto.

[Passed April 20, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

- | | |
|--|---|
| <p>1. Appeals to supreme court; cases that may be appealed; sufficiency of summons or return service, or</p> | <p>pleadings; certification to supreme court; forms of certificate; hearings to have precedence; docketing.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia:

That section one of chapter one hundred and thirty-five, of the code of West Virginia, designated as Barnes' code, one thousand nine hundred and twenty-three, be and the same is hereby amended and re-enacted so as to read as follows:

Section 1. A party to a controversy in any circuit court may obtain from the supreme court of appeals, or a judge thereof, in vacation, an appeal from, or a writ of error or supersedeas to a judgment, decree or order of such circuit court in the following cases: (1) In civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars, wherein there is a final judgment or decree or order. (2) In controversies concerning the title or boundaries of land, the probate of a will, or the appointment of a personal representative, guardian, committee or curator. (3) Concerning a mill, road, way, ferry or landing. (4) Concerning the right or a corporation, county or district to levy tolls or taxes. (5) In any case of *quo warranto*, *habeas corpus*, *mandamus* or prohibition. (6) In any case involving freedom or the constitutionality of a law. (7) In any case in chancery wherein there is a decree or order dissolving or refusing to dissolve an injunction, or requiring money to be paid, or real estate to be sold, or the possession or title of the property to be changed, or adjudicating the principles of the cause. (8) In any case where there is a judgment or order quashing or abating, or refusing to quash or abate an attachment. (9) In any civil case where there is an order granting a new trial or rehearing, and in such cases an appeal may be taken from the order without waiting for the new trial or rehearing to be had. (10) In any criminal case where there has been a conviction in a circuit court or a conviction in an inferior court which has been affirmed in a circuit court.

28 Any question arising upon the sufficiency of a summons or
29 return of service, or challenge of the sufficiency of a pleading,
30 in any case within the appellate jurisdiction of the supreme
31 court of appeals, may, in the discretion of the circuit court in
32 which it arises, and shall, on the joint application of the par-
33 ties to the suit, in beneficial interest, be certified by it to the
34 supreme court of appeals for its decision, and further proceed-
35 ings in the case stayed until such question shall have been de-
36 cided and the decision thereof certified back. The forms of the
37 certificates of such questions, as well as the time and manner
38 of the hearing and notice thereof and the portion of the record
39 to be sent up, shall be as prescribed by the supreme court of ap-
40 peals; but such hearings shall have precedence over those aris-
41 ing upon appeals and writs of error. Entry of such certificate
42 or the fact that it has been made, upon the record of the case in
43 the trial court, shall be sufficient notice to the parties that the
44 questions involved are on application for hearing and determi-
45 nation by the appellate court. Attested copies of the portions of
46 the record of the case or cause necessary to a determination of
47 the questions so certified, shall forthwith be presented to the
48 supreme court of appeals together with the question certified,
49 and if the court be of the opinion that the rulings of the lower
50 court ought to be reviewed, the case or cause shall be docketed
51 for hearing without further notice to the parties; but if the
52 court be of the opinion that there has been no error in the rul-
53 ings, it shall refuse to docket the case or cause, and the action
54 of the court in refusing to docket same shall then be certified
55 forthwith to the lower court.

CHAPTER 29

(House Bill No. 206—By Mr. Sydenstricker)

AN ACT to amend and re-enact section one-k of chapter one hundred and twelve of Barnes' code of West Virginia, one thousand nine hundred and twenty-three, fixing the times for holding court in the eleventh judicial circuit.

[Passed March 25, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1-k. Times for holding court.

Be it enacted by the Legislature of West Virginia:

That section one-*k* of chapter one hundred and twelve of Barnes' code of West Virginia, one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 1-*k*. For the county of Greenbrier, on the second Tuesday in January, the fourth Tuesday in April, the fourth Tuesday in July and the third Tuesday in November of each year.

For the county of Pocahontas, on the first Tuesday in April, the first Tuesday in June and the first Tuesday in October of each year.

CHAPTER 30

(Senate Bill No. 83—By Mr. Herold)

AN ACT fixing limitations on revocations, countermands of payments and stop-payment orders relating to the payment of checks or drafts.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Time limit for revocation, countermand or stop-payment of checks or drafts; service of notice; renewals in writing; time effective;

Sec.

2. upon whom service may be made. Notices affecting paper at time this act takes effect; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That a time limit for revocation, countermands of payment and stop-payment orders relating to the payment of checks and drafts be fixed by law as follows:

Section 1. No revocation, countermand or stop-payment order relating to the payment of any check or draft drawn on any bank or trust company doing business in this state shall remain in effect for more than six months after the service thereof on such bank or trust company, unless the same be renewed, which renewal shall be in writing and be in effect for not more than ninety days from the date of service thereof on such bank or trust company, after which time such check or draft shall not be paid by such bank or trust company.

Service of the notice herein provided for may be made upon any employee of such bank or trust company who may be found at its place of business.

Sec. 2. All notices affecting checks upon which revocation, countermand or stop-payment order have been made at the time of the taking effect of this act shall not be deemed to continue for a period of more than ninety days thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 31

(Senate Bill No. 84—By Mr. Herold)

AN ACT relative to notice of adverse claim to a bank deposit and the procedure necessary to make such claim effective to cause recognition of the adverse claimant.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Notice of adverse claim to bank deposits; courts orders; fiduciary accounts excepted.

Be it enacted by the Legislature of West Virginia:

That notice of adverse claim to a bank deposit and the procedure necessary to cause recognition of the adverse claimant, be regulated as follows:

Section 1. Notice to any bank or trust company doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with process in said suit in any manner provided by law, or shall execute to said bank, in form and with sureties acceptable to it a bond indemnifying said bank from any and all liability, loss, damage, costs, and expenses for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank; *provided*, that this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such rela-

19 tionship, as also the facts showing reasonable cause or belief on
20 the part of the said claimant that the said fiduciary is about to
21 misappropriate said deposit, are made to appear by the affi-
22 davit of such claimant.

All acts, and parts of acts, inconsistent herewith are hereby repealed.

CHAPTER 32

(Senate Bill No. 85—By Mr. Herold)

AN ACT relating to forwarding of checks by banks to payor banks.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.	1. Banks authorized to forward checks directly to payor banks; deemed		due diligence; not affecting clearing houses; repealing inconsistent acts.
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Be it enacted by the Legislature of West Virginia:

That the forwarding of checks by banks to payor banks be regulated as follows:

Section 1. Any bank, banker or trust company, hereinafter
2 called bank, organized under the laws of, or doing business in
3 this state, receiving for collection or deposit, any check, note
4 or other negotiable instrument drawn upon or payable at
5 any other bank, located in another city or town, whether
6 within or without this state, may forward such instrument for
7 collection directly to the bank on which it is drawn or at
8 which it is made payable, and such method of forwarding
9 direct to the payor shall be deemed due diligence, and the
10 failure of such payor bank, because of its insolvency or other
11 default, to account for the proceeds thereof, shall not render
12 the forwarding bank liable therefor; *provided, however,* that
13 such forwarding bank shall have used due diligence in other
14 respects in connection with the collection of such instrument.
15 *Provided, further,* that nothing herein contained shall be con-
16 strued as affecting any existing right of any such bank, banker
17 or trust company to collect any check, note or other negotiable
18 instrument through any corresponding bank or clearing house.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 33

(Senate Bill No. 157—By Mr. Baker)

AN ACT to amend and re-enact sections twelve and fourteen of chapter fifty-four-c of Barnes' code of one thousand nine hundred and twenty-three, relating to deposits of surety companies.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

12. To file an authenticated certificate of capital stock with insurance commissioner; when; file statement with each county clerk showing financial conditions of company; facts statement must show; public record in county recorded in well bound book; fees; penalty

Sec.

for making fraudulent, false or misleading statement; auditor may return deposits.
14. Penalties for failure to comply with provisions of section 12; may suspend right of company to do business in this state.

Be it enacted by the Legislature of West Virginia:

That sections twelve and fourteen of chapter fifty-four-c of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 12. That no company incorporated under this act shall exercise any such power or right as is mentioned in section nine of this chapter until there has been filed, with the insurance commissioner, a duly authenticated certificate showing the capital of such company to be at least six hundred thousand dollars, fully paid and unimpaired. And such duly authenticated certificate shall be filed with the insurance commissioner in the month of February of every year thereafter. Every company exercising rights or powers such as are mentioned in section nine hereof shall before commencing business and thereafter within the first ten days of the month of April of each year, file with the clerk of the county court of each county in which it proposes to transact or is transacting business, a statement certified by the secretary, treasurer or other officer of such corporation, under oath or affirmation, showing the financial condition of the company on the first day of the month of January preceding the month in which such statement is filed; which statement shall show all the resources and liabilities of the company and the nature of its investments, and such statement shall be made a part of the public records of each county, and be recorded in a well bound book to be kept for such purposes, and to be called "surety

23 company statements;” for which filing and recording the clerk
24 of the county court shall be allowed a fee of fifty cents to be
25 paid by the company making such statement. Any officer or
26 employee of any such company who shall knowingly make
27 any fraudulent, false or misleading statement, under the pro-
28 visions of this act, shall be guilty of a misdemeanor and
29 shall, upon conviction thereof, be punished by a fine of not
30 less than five hundred dollars and not more than twenty-five
31 hundred dollars. *Provided*, that the auditor of state may, in
32 his discretion, return any deposit, heretofore made by said
33 companies with him, under former laws.

Sec. 14. Any company exercising or attempting to exercise
2 any of the rights or powers mentioned in section nine hereof
3 without having fully complied with the provisions of section
4 twelve hereof by filing certificate required with the insurance
5 commissioner, or by making and filing the statements required
6 to be made and filed with the clerks of the county court, or
7 any company violating the provisions of section thirteen hereof
8 by accepting money on deposit, or acting in a fiduciary capacity,
9 shall be guilty of a misdemeanor, and, upon conviction thereof,
10 shall be fined not less than five hundred dollars; and in such
11 cases, whether or not there be a prosecution for the misde-
12 meanor, the insurance commissioner, upon being fully satisfied
13 of the facts, may suspend the right of such company to do
14 business in this state or exercise the powers granted by section
15 nine hereof.

CHAPTER 34

(Senate Bill No. 253—By Mr. Jackson)

AN ACT to amend and re-enact sections seventy-eight, seventy-eight-a (1), seventy-nine-a (2), seventy-nine-a (8), eighty, eighty-a (2), eighty-one-a (1), eighty-one-a (5), eighty-one-a (6), eighty-one-a (7), eighty-one-a (10), eighty-one-a (12), and eighty-one-a (15) of chapter fifty-four of Barnes' code of West Virginia of one thousand nine hundred and twenty-three, relating to banking.

[Passed April 23, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.	Sec.
78. Powers exercised by banks; must take out charter; charter to be approved by commissioner of banking; regulations concerning holding of land; penalty.	81-a. (5). Banks to present books for examination; examination; penalty for failure to disclose information.
78-a. Banking companies authorized to change capital stock with limitations; notice to stockholders, secretary of state and banking commissioner; certification of resolution; authorization by state.	81-a. (6). Irregularities; correction; reports; overdue assets.
79-a. (2). Dividends; penalty for illegal dividends.	81-a. (7). Violations; receivership; collection of debts; bond of receiver; jurisdiction of commissioner; expenses of receivership; retroactive.
79-a. (8). Bank not liable on account of forged check, with exceptions.	81-a. (10). Authorizing bank to start business; penalty for violations.
80. Reserve.	81-a. (12). Salary and expenses of banking commissioner and assistants; examination fees; payment into treasury.
80-a. (2). Oaths and bonds of bank officers.	81-a. (15). Institutions subject to this law; examination; repealing conflicting acts.
81-a. (1). Commissioner of banking; qualifications; duties; assistants; bonds.	

Be it enacted by the legislature of West Virginia:

That sections seventy-eight, seventy-eight-a (1), seventy-nine-a (2), seventy-nine-a (8), eighty, eighty-a (2), eighty-one-a (1), eighty-one-a (5), eighty-one-a (6), eighty-one-a (7), eighty-one-a (10), eighty-one-a (12), and eighty-one-a (15) of chapter fifty-four of Barnes' code of West Virginia of one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 78. Every such bank may exercise, under the laws 2 of this state, all such incidental powers as may be necessary 3 to carry on the business of banking, by discounting promissory 4 notes, negotiating drafts, bills of exchange and other evidences 5 of indebtedness, receiving deposits, buying and selling ex- 6 change, bank notes, bullion or coin, and by loaning money on 7 personal or other security. Any banking institution may 8 accept for payment at a future date drafts drawn upon it by 9 its customers, and to issue letters of credit authorizing the 10 holders thereof to draw drafts upon it or its correspondents, 11 at sight or on time, not exceeding one year. It shall be unlawful 12 for any individual or association of individuals doing business 13 in this state to use in connection with such business the term 14 "bank," "banker," "banking company," or "trust company," 15 or receive deposits, or advertise to receive deposits, either 16 savings or demand, or sell foreign exchange, or hold them- 17 selves out, directly or indirectly, as engaged in the banking 18 business, until they have taken out a charter and complied 19 with the statutes governing banks and trust companies. Here-

20 after no charter shall be issued to any bank to do business in
21 this state until the application therefor has been approved in
22 writing by the commissioner of banking; and no real estate
23 shall be carried upon the books of any bank at a value greater
24 than the actual cost. No bank shall hold or convey real estate
25 except for the following purposes:

26 (1) Such as shall be necessary for its immediate accommo-
27 dation in the transaction of its business.

28 (2) Such as shall be mortgaged to it in good faith by
29 way of security for debts conveyed.

30 (3) Such as shall be conveyed to it in satisfaction of debts
31 previously contracted in the course of its dealings.

32 (4) Such as it shall purchase at sales under judgments,
33 decrees, deeds of trust or mortgages, held by the association,
34 or shall purchase to secure debts due to it, which it shall dis-
35 pose of at the earliest practicable date. Any person violating
36 the provisions of this section shall be deemed guilty of a mis-
37 demeanor and on conviction thereof shall be fined not less than
38 five hundred dollars nor more than one thousand dollars, or
39 be confined in the county jail for a period not exceeding six
40 months, or both, at the discretion of the court, for each and
41 every offense.

Sec. 78-a (1). Any banking company heretofore formed
2 or which may be hereafter formed under the provisions of this
3 chapter, at any general, adjourned or special meeting of the
4 stockholders thereof, may by resolution make such increase or
5 reduction of the capital stock thereof as may be decided upon
6 by said stockholders, a majority of the stock of said company
7 being represented at such meeting by the holders thereof, and
8 such holders being present in person, or by proxy, and voting
9 for such increase or reduction; *provided*, that no increase or
10 reduction shall conflict with the limitation prescribed in section
11 seventy-seven of this chapter, and that a notice over the signa-
12 ture of the president of said banking company, of the inten-
13 tion to offer such resolution, shall be sent through the United
14 States mail to each stockholder, the secretary of state and the
15 commissioner of banking ten days previous to such meeting; or
16 that notice of such intention be given by advertisement pub-
17 lished once a week for two successive weeks in some newspaper
18 of general circulation in this state; or for ten days in some
19 daily paper of like circulation printed in this state. When

20 such increase or reduction shall have been authorized by any
21 banking company, the president thereof shall, under his sig-
22 nature and the seal of such bank, certify the resolution increas-
23 ing or reducing the capital stock to the secretary of state and,
24 if the commissioner of banking shall approve such increase or
25 reduction, then the secretary of state, under his hand and the
26 great seal of the state, shall issue to such bank a certificate
27 reciting such resolution and declaring such increase or reduc-
28 tion to be authorized by law, and such certificate shall be
29 *prima facie* evidence of such increase or reduction and of the
30 authority to make the same in all courts of law. In case the
31 capital stock is increased, all of the old outstanding stock
32 certificates shall be called in and cancelled, and new certificates
33 issued covering all the authorized capital stock.

Sec. 79-a (2). The directors of any bank may annually,
2 semi-annually or quarterly, declare dividends, but such bank
3 shall, before the declaration of any dividend, carry one-tenth
4 part of the net profit accrued to its surplus fund until the same
5 shall amount to twenty per centum of its capital stock. No
6 dividend shall be declared except from earnings, remaining
7 after deducting all losses, all sums due for expenses, and all
8 over-due debts upon which no interest has been paid for a
9 period of six months unless the same are well secured and in
10 the process of collection. Any director voting for any dividend
11 in violation of the provisions of this section shall be deemed
12 guilty of a misdemeanor and upon conviction thereof shall be
13 fined not less than five hundred dollars, and in the discretion
14 of the court, confined in jail not less than thirty days.

Sec. 79-a (8). No bank which has paid and charged to the
2 account of a depositor any money on a forged or raised check
3 issued in the name of said depositor shall be liable to said
4 depositor for the amount paid thereon unless either (1) within
5 six months from notice to said depositor that the vouchers
6 representing payments charged to the account of said deposi-
7 tor for the period during which such payment was made are
8 ready for delivery, or (2) in case no such notice has been
9 given, within six months after the return to said depositor of
10 the voucher representing such payment, said depositor shall
11 notify the bank that the check so paid is forged or raised. The
12 notice referred to may be given by mail to said depositor at

13 his last known address with postage prepaid. No bank shall
14 be liable to a depositor because of the non-payment through
15 mistake or error and without malice of a check which should
16 have been paid unless the depositor shall allege and prove
17 actual damage by reason of such non-payment and in such
18 event the liability shall not exceed the amount of damage so
19 proved.

Sec. 80. All banks operating under the provision of this
2 chapter shall at all times maintain on hand as a reserve in
3 lawful money of the United States, an amount equal to at least
4 ten per centum on deposits which are subject to withdrawal on
5 demand and five per centum on time deposits; and whenever
6 said reserve of any bank shall fall below said per centum of
7 such deposits it shall not increase its liabilities by making any
8 new loans until the required proportion between the aggregate
9 amount of such deposits and its reserve fund shall be restored;
10 *provided*, that in lieu of the lawful money on hand, four-fifths
11 of said reserve may consist of balances payable on demand from
12 any national or state bank doing business in this state, or any
13 solvent banking institutions outside of this state, that may be
14 approved by the supervisor in said state.

Sec. 80-a (2) The board of directors shall require the
2 cashier, and other accounting officers of the bank, to take an
3 oath and execute bonds for the faithful discharge of their
4 duties, the penalty of such bonds to be commensurate with the
5 responsibility attached to the position.

Sec. 81-a (1). On or before the first day of April, one
2 thousand nine hundred and fifteen, or as soon thereafter as
3 possible, and every four years thereafter, the governor of this
4 state shall designate and appoint some competent person com-
5 missioner of banking, who is a citizen of this state, and who
6 shall be experienced and skilled in the science of bookkeeping
7 and banking, and who shall have had at least two years expe-
8 rience as cashier or an assistant cashier of a bank, or shall
9 have served at least two years as assistant commissioner of
9-a banking or bank examiner, and who is neither directly nor
10 indirectly interested in any bank or corporation subject to his
11 supervision, who shall examine into and report, as hereinafter
12 provided, upon the affairs of all banks and other institutions
13 specified in this act, doing business in this state, except those

14 that are organized and carrying on business under the banking
15 acts of the national government. The commissioner of banking
16 may designate and appoint all necessary assistant commission-
17 ers of banking, one of whom may be designated deputy com-
18 missioner, who shall have the same qualifications as the com-
19 missioner and who shall assist the commissioner of banking,
20 and under his direction and authority may perform any or all
21 of the duties, and exercise any or all of the powers by this act
22 required of, or vested in, the commissioner of banking, and
23 shall give surety bonds for faithful performance of their duty
24 in the penalty of five thousand dollars each and such bond in
25 the amount of twenty-five thousand dollars shall be required of
26 the commissioner of banking, the premium on which bonds shall
27 be paid by the state of West Virginia, and said bonds shall be
28 filed with the secretary of state.

Sec. 81-a (5). For the purpose of making said examinations,
2 as above required. the officers of said banks, and other institu-
3 tions, shall, upon his demand, furnish and give full access to
4 said commissioner for such examination, all the books, papers,
5 notes, bills and other evidences of debts due said bank or other
6 institution, and shall disclose fully and truly all the institu-
7 tion's indebtedness and liability, and shall furnish him with
8 all necessary clerical aid and assistance. And said commis-
9 sioner shall have a right to administer to and examine under
10 oath any and all of said bank officers and directors touching
11 any matter or things pertaining to said examination, and the
12 affairs and conditions of said institution. Any officer or direc-
13 tor failing or refusing to furnish said commissioner with any
14 such papers or information, or who shall fail to do or perform
15 any of the other duties or requirements of this act, shall be
16 guilty of a misdemeanor, and upon conviction thereof shall
17 be fined not less than one hundred dollars nor more than five
18 hundred dollars, and may at the discretion of the court, be im-
19 prisoned in the county jail not less than three months nor more
20 than one year. And it shall be the duty of said commissioner
21 to report at once to the prosecuting attorney of the county in
22 which the bank is situated, any such violation on the part of
23 any such bank officer or director.

Sec. 81-a (6). If upon making his examination of any bank,
2 or other institution, the commissioner should discover that the

3 banking laws of the state are not being fully observed, or that
4 any irregularities are being practiced, he shall at once call the
5 attention of the officers and directors of the bank or other insti-
6 tution to the fact and demand that the same be promptly cor-
7 rected; it shall also be his duty to demand a sworn statement
8 from the officers of said bank or other institutions, covering all
9 the points of controversy, to be mailed to him at his office once
10 every thirty days (not for publication but for his own informa-
11 tion and guidance), until he is satisfied that the irregularities
12 have been corrected. The said commissioner shall also have the
13 authority to call for special reports and make special examina-
14 tions of any bank or other institution which he may have good
15 reason for believing is not properly conducted, such examina-
16 tions to be paid for by the bank or other institution, the same
17 as regular examinations. If any examination made by the com-
18 missioner, under the provisions of this section, discloses assets
19 the validity of which, in the judgment of the commissioner, is
20 questionable, or shall disclose over-due assets, the commissioner
21 shall order that such questionable assets be charged off the books
22 of the bank as part of the assets thereof within a period of three
23 months from the giving of notice by the commissioner to such
24 bank and legal proceedings for the collection of such over-due
25 assets be forthwith instituted.

Sec. 81-a (7). If any such institution shall neglect or refuse
2 for a period of sixty days to make special reports to the com-
3 missioner, as he may demand, or shall fail, neglect or refuse to
4 comply with the provisions of the next preceding section, or if
5 at any time the commissioner shall find a bank or other institu-
6 tion subject to his supervision in an insolvent condition, or if
7 such institution shall neglect or refuse to correct any irregulari-
8 ties or violations of this act which he may call to the attention of
9 the president, cashier or board of directors, he shall have author-
10 ity to take charge of such institution and shall report at once
11 such insolvency, irregularity, or violation to the governor, and
12 shall have the power, with the consent of the governor, to ap-
13 point a competent person as receiver of such institution; such
14 receiver under the direction of the commissioner of banking,
15 shall take possession of the books, moneys, records and assets of
16 every description of such institution, and collect all debts, dues
17 and claims belonging to it, and upon the order of a court of
18 competent jurisdiction, or the commissioner of banking, may sell

19 or compound all bad or doubtful debts, and on like orders may
20 sell all its real and personal property on such terms as the court
21 or commissioner of banking may direct, and if necessary to pay
22 its debts, the commissioner of banking may enforce the indi-
23 vidual liabilities of its stockholders. A suit for such purpose
24 may be instituted against resident stockholders, either in the
25 name of such receiver or the commissioner of banking, in the
26 circuit court of the county in which its banking house or office
27 is located, and as to the non-resident stockholders the suit may
28 be brought in any county of any state where such stockholder
29 resides or where service of process may be had on such stock-
30 holders; *provided, however*, that before any such receiver shall
31 take charge of any such moneys or assets of any such institution
32 he shall give surety bond in such penalty as the governor shall
33 prescribe, with sureties to be approved by the governor, condi-
34 tioned for the faithful discharge of his duties as such receiver
35 and the paying over as required by law or directed by order of
36 the court, or the commissioner of banking, of all moneys and
37 assets which shall come into his hands as such receiver; such
38 bond shall be made payable to the state of West Virginia, and
39 shall be filed in the office of the commissioner of banking. and
40 suits or actions thereon may be brought by any person injured by
41 reason of any breach of its conditions, but all suits and actions
42 against such receiver shall be brought in the state and county
43 where the banking house is located. The commissioner of bank-
44 ing shall have concurrent jurisdiction with the circuit court of
45 the county in which the bank is situated to appoint a receiver for
46 any bank for any of the causes specified in this or the next pre-
47 ceding section, but no receiver shall be appointed by any such
48 court unless the commissioner of banking neglects, fails or refuses
49 to act. All expenses on account of any receivership shall be paid
50 out of the assets of such association before distribution of the
51 proceeds thereof by and on order of the commissioner of bank-
52 ing; and such receiver may, upon the order of the commissioner
53 of banking, make a ratable dividend of the money in his hands
54 on all such claims as may have been proved to his satisfaction or
55 adjudicated in a court of competent jurisdiction, and as the pro-
56 ceeds of the assets of such association are paid to the receiver,
57 he shall on like order, make further dividends on all claims pre-
58 viously proved or adjudicated, and the remainder of the pro-
59 ceeds, if any, shall be paid over to the shareholders of such

60 association, or their legal representatives, in proportion to the
61 stock by them respectively held. Claims of one dollar or less
62 may be paid in full upon payment of the first dividend. At the
63 discretion of the commissioner of banking, if seven years have
64 elapsed and no demand has been made for payment by a claim-
65 ant, and his whereabouts, or those next him be unknown, the
66 amount to which such claimant is entitled may be paid into the
67 state treasury by the receiver. This section of this act shall have
68 a retroactive effect.

Sec. 81-a (10). When any bank authorized by this chapter
2 desires to begin business, it must notify the commissioner of
3 banking, who shall at his earliest convenience, make an exam-
4 ination of its affairs, and shall ascertain whether fifty per centum
5 of its capital stock has, in good faith been actually paid in, and
6 whether all the other provisions required to be complied with,
7 before commencing the business of banking, have been carefully
8 observed. Having satisfied himself that all the conditions prece-
9 dent have in good faith been complied with, the said commis-
10 sioner shall then issue to such bank, under his hand and official
11 seal, a certificate of authority reciting that such examination has
12 been made and that the bank is authorized to commence busi-
13 ness; which certificate shall be conspicuously displayed in the
14 principal business room of the bank. But the commissioner
15 may withhold from any association his certificate authorizing
16 the commencement of business whenever he has reason to sup-
17 pose that the stockholders have formed the same for any other
18 than the legitimate objects contemplated in this act. The presi-
19 dent, cashier and directors, of any bank that shall receive de-
20 posits before the certificate of authority contemplated in this
21 section has been issued, shall be deemed guilty of a misde-
22 meanor, and on conviction thereof shall be fined not less than
23 five hundred dollars and, at the discretion of the court, impris-
24 oned in the county jail not less than three months nor more than
25 six months.

Sec. 81-a (12). For making such examinations and for pre-
2 paring and preserving all records and reports contemplated in
3 this act, the said commissioner of banking shall be paid the sum
4 of five thousand dollars per annum salary, and necessary ex-
5 penses out of the state treasury by proper warrant drawn by the
6 auditor upon the treasurer and the assistant commissioners of
7 banking shall each receive not to exceed the sum of thirty-five

8 hundred dollars per annum salary, and necessary expenses pay-
9 able upon like warrants. There shall be paid by each of said
10 banks, savings banks, banking associations, trust companies,
11 mortgage and discount companies and other institutions operat-
12 ing under the banking laws of this state, in payment for exam-
13 ination made by said commissioner of banking or his assistants
14 to the state as follows: For the first twenty-five thousand dol-
15 lars of assets, as shown by the books thereof on the day of exam-
16 ination, forty dollars, and three cents for each additional one
17 thousand dollars of assets. There shall be paid by each of said
18 building and loan associations and other institutions operating
19 under the building and loan laws of this state, in payment for
20 examinations made by the commissioner of banking or his as-
21 sistants to the state as follows: For the first one hundred thou-
22 sand dollars of assets as shown by the books thereof on the day
23 of examination twenty-five dollars, and three cents for each ad-
24 ditional one thousand dollars of assets; and said commissioner
25 of banking shall collect all such fees and pay the same into the
26 state treasury.

Sec. 81-a (15). It is further expressly provided that all sav-
2 ings banks, co-operative banking associations, and all trust, title
3 insurance, guaranty, surety and indemnity companies doing
4 a banking business, and all other companies similar in character,
5 whether heretofore or hereafter organized under the laws of
6 this state, shall be subject to the provisions of this law, so far
7 as it is applicable to them, and to the extent that the said com-
8 missioner shall semi-annually, or oftener if he deem it neces-
9 sary, make a thorough examination of their books, papers and
10 affairs, and see that the laws under which they are operating
11 are being carefully observed. And in case he finds that such
12 institutions are being improperly conducted he shall proceed
13 against them after the manner specified in section eighty-one-a
14 (7) of this act.

All acts and parts of acts inconsistent herewith are hereby
repealed.

CHAPTER 35

(Senate Bill No. 254—By Mr. Jackson)

AN ACT to amend and re-enact sections seventy-eight-a (5) and
seventy-eight-a (6) of chapter fifty-four of Barnes' code of

West Virginia of one thousand nine hundred and sixteen, as amended and re-enacted by chapter thirty-one, acts of the legislature, one thousand nine hundred and twenty-three, relating to savings banks, banking associations, trust companies and building and loan associations and providing for supervision and examination by the commissioner of banking, so as to include therein mutual investment companies, mortgage companies and mortgage and discount companies, and all associations and corporations of like kind or character doing business in this state, and, providing, that no application for charter, or an amendment thereto, shall be granted until first approved by the commissioner of banking; and, further providing, that hereafter no charter shall be granted to any company, association or corporation mentioned herein, authorizing it to issue no par stock; and, further providing, that no company, association or corporation referred to herein shall pay, or authorize to be paid, commissions for the sale of its stock, nor to give, issue, or have issued, bonus stock of any kind or character; and providing further, that no company, association, or corporation named herein shall be allowed to begin business without sufficient capital stock as to satisfy the commissioner of banking that the earnings will be adequate to meet operating and overhead expenses; and, providing further, that no company, association, or corporation mentioned herein except mutual building and loan associations shall make loans secured by its own stock or declare dividends except out of actual earnings in hand at the time the dividends are declared.

[Passed April 23, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

78-a. (5). Capital of saving banks, building and loan associations, etc., subject to state supervision.

78-a. (6). File certified copy of charter

with the commissioner; certificate of authority; penalties for violations; file statements; granting charters; repeal inconsistent acts.

Be it enacted by the Legislature of West Virginia:

That sections seventy-eight-a (5) and seventy-eight-a (6) of chapter fifty-four of Barnes' code of West Virginia of one thousand nine hundred and sixteen, as amended and re-enacted by chapter thirty-one, acts of the legislature of one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 78-a (5). It is further expressly provided that all savings banks, co-operative banking associations and trust companies engaged in a general banking business shall be subject to the provisions of this chapter, but nothing herein contained shall be construed to authorize any trust company to do business in this state with a capital of less than one hundred thousand dollars, paid up and unimpaired, as provided by section six of chapter seven of the acts of one thousand nine hundred and three; and that all building and loan associations, mutual investment associations, mortgage companies, mortgage and discount companies, and all associations and corporations of a like kind or character doing business in this state, and all associations and corporations (except licensed stock brokerage companies), organized for the purpose of engaging in the business of buying, selling, discounting or dealing in mortgages, bonds, notes, or other securities or commercial paper, shall be subject to a state supervision and examination, as follows:

Sec. 78-a (6). Every such association or corporation organized under the laws of this state, and desiring to operate within the state, shall file with the commissioner of banking a certified copy of its charter, constitution and by-laws. Said commissioner shall carefully examine the same and if he find that they provide a safe, just and equitable plan for the management of the business of the association or corporation, he shall issue to such association or corporation a certificate of authority permitting it to begin business. But if he find the provisions of said charter, constitution and by-laws to be impracticable, unjust or inequitable, or oppressive, or lacking in security to any class of shareholders or stockholders, he shall withhold his certificate of authority. It shall not be lawful for any association or corporation hereafter organized under the laws of this state, for any of the purposes above set forth, to transact any business except the execution of its articles of incorporation, the adoption of its constitution and by-laws and the election of directors and officers, until it shall have procured the certificate of authority above provided for, nor shall any amendment of the charter, constitution or by-laws of any such association or corporation become operative until a copy of the same shall have been filed and a certificate of authority obtained as above provided in regard to original charter, constitution and by-laws. Any bank, association or corpo-

25 ration violating the provisions of this section shall be deemed
26 guilty of a misdemeanor, and on conviction thereof shall be
27 fined not less than five hundred dollars nor more than one
28 thousand dollars, and in addition thereto the officer or officers
29 of any such bank, association or corporation violating the pro-
30 visions of this section shall be deemed guilty of a misdemeanor
31 and on conviction thereof shall be fined not less than five hun-
32 dred dollars nor more than one thousand dollars, and, in the
33 discretion of the court, imprisoned in the county jail not more
34 than six months. Every building and loan association, mutual
35 investment association, mortgage company, and mortgage and
36 discount company, and every association or corporation (except
37 licensed stock brokerage companies), of like kind or character,
38 or organized for the purpose of engaging in the business of
39 buying, selling or dealing in mortgages, bonds, notes, or other
40 securities or commercial paper, organized under the laws of
41 this state, and operating within the state, shall at least twice
42 a year, at such times as may be designated by the commissioner
43 of banking, file in the office of said commissioner of banking
44 within ten days after the receipt of his request for same, a
45 statement verified by its president or secretary and approved
46 by three of its directors, in such form as may be prescribed by
47 said commissioner, setting out its actual financial condition and
48 the amount of its assets and liabilities, and furnish such other
49 information as to its affairs as the said commissioner may re-
50 quire, which reports, in the same form in which they are trans-
51 mitted to the commissioner of banking, shall be circulated
52 among all the stockholders of the association or corporation.
53 Every person who shall wilfully or knowingly subscribe or
54 make, or cause to be made, any false statement or any false
55 entry or fail to make proper entries in any books of any associ-
56 ation or corporation above mentioned, or exhibit false papers
57 with the intent to deceive any person authorized to examine
58 into the affairs of such association or corporation, or shall make,
59 state or publish any false statement of the financial condition
60 of such association or corporation, shall be deemed guilty of a
61 felony and upon conviction thereof shall be fined not exceeding
62 ten thousand dollars, and in the discretion of the court, be im-
63 prisoned in the state penitentiary not less than one nor more
64 than five years.

65 No application for charter, or amendment thereto, of any
66 company, association or corporation mentioned in this act shall

67 be granted until the same has first been submitted to and ap-
 68 proved by the commissioner of banking; and no charter shall
 69 hereafter be granted to any company, association or corpora-
 70 tion mentioned in this act, whereby it is authorized to issue no
 71 par stock; no company, association or corporation referred to
 72 in this act shall pay, or authorized to be paid, commissions for
 73 the sale of the stock, nor to give, issue or have issued bonus
 74 stock of any kind or character, or issue directly or indirectly
 75 stock for property or services; no company, association or cor-
 76 poration named in this act shall be allowed to begin business
 77 without sufficient capital so as to satisfy the commissioner of
 78 banking that the earnings thereof will be adequate to meet oper-
 79 ating and overhead expenses; and no company, association or
 80 corporation mentioned herein except mutual building and loan
 81 associations shall make loans secured by its own stock, and no
 82 company, association or corporation connected herein shall de-
 83 clare and pay dividends except out of actual accrued earnings
 84 in hand at the time the dividends are declared.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 36

(House Bill No. 483—By Mr. Hawkins)

AN ACT to provide for the incorporation, establishment and operation of loan and savings institutions known as "Credit Unions."

[Passed April 20, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.		Sec.	
1.	Organization, manner of.		In trust.
2.	Amendment to by-laws; how made.	14.	Charges and penalties.
3.	Restriction of term credit union.	15.	Deposits.
4.	Powers of.	16.	Rate of interest.
5.	Membership.	17.	May re-discount and borrow.
6.	Supervision commissioner of banking; reports; examinations.	18.	How funds invested.
7.	Fiscal year; meetings; regulations as to voting.	19.	Loan and security therefor; loan to non-member punishable; penalty.
8.	Administrative officers; election of; oath of.	20.	Reserve fund.
9.	Directors and officers; duties and compensation.	21.	Dividends.
10.	Credit committee; duties.	22.	Notes, drafts, bills of exchange.
11.	Supervisory committee; duties; audit and report.	23.	Expulsion, manner of; withdrawal.
12.	Capital; entrance fee; transfer fee.	24.	Dissolution, manner of.
13.	Shares and deposits of minors and	25.	Place of business, may change.
		26.	Violation a misdemeanor; penalty; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That credit unions may be hereafter incorporated and operated in this state under the following conditions:

Incorporation and By-Laws.

Section 1. Any eight persons, residents of the state of West Virginia, may apply to the secretary of state for permission to organize a credit union. A credit union is organized in the following manner:

(a) The applicants execute in duplicate an incorporation agreement by the terms of which they agree to be bound. The agreement shall state:

(1) The name and location of the proposed credit union.

(2) The names and addresses of the subscribers to the certificate, and the number of shares subscribed by each.

(3) The par value of the shares of the credit union which shall not exceed ten dollars each.

(b) They next prepare and adopt by-laws for the general government of the credit union consistent with the provisions of this act, and execute the same in duplicate. The by-laws shall specify:

(1) The date of the annual meeting, which shall be in January of each calendar year, requirements as to notice and manner of conduct of such meeting.

(2) The number of directors shall be not less than five, all of whom must be shareholders and members of the corporation, their powers and duties, and the compensation and duties of all officers;

(3) The conditions and qualifications for membership;

(4) The number of members of the credit committee and of the supervisory committee, with their respective powers and duties;

(5) The conditions upon which shares may be issued, transferred and withdrawn;

(6) The charges, if any, to be made for failure to meet obligations punctually;

(7) The conditions upon which deposits may be received and withdrawn, and whether the corporation shall have the power to borrow;

(8) The manner in which the funds of the corporation shall be invested;

37 (9) The conditions upon which loans may be made and
38 repaid;

39 (10) The method of receipting for money paid in on account
40 of shares, deposits and loans;

41 (11) The manner in which the reserve fund shall be accu-
42 mulated;

43 (12) The manner in which dividends shall be determined
44 and paid out.

45 (c) The agreement and by-laws, both executed in duplicate,
46 are forwarded to the secretary of state.

47 (d) The secretary of state within thirty days of the receipt
48 of said agreement shall determine whether it conforms
49 with the provisions of this act, and whether or not the organi-
50 zation of the credit union in question would benefit the organ-
51 izers of it, and be consistent with the purposes of this act.

52 (e) Thereupon the said secretary of state shall notify
53 the applicants of his decision. If it is favorable, he shall
54 issue a charter, attach the charter to the duplicate agreement
55 and return the same, together with the duplicate by-laws to the
56 applicants; *provided, however*, that the secretary of state shall
57 issue no charter to any credit union to do business in this state,
58 until said incorporation agreement therefor has been approved
59 in writing by the commissioner of banking.

60 (f) The applicants shall thereupon file the said duplicate
61 of incorporation agreement, with the charter attached thereto,
62 with the clerk of the county within which the credit union is to
63 do business, who shall make a record of said certificate and
64 return it, with his certificate of record attached thereto, to the
65 said secretary of state for permanent record, the usual fees
66 being charged for such recordation.

67 (g) When any credit union authorized by this act desires
68 to begin business it must notify the commissioner of banking
69 who shall at his earliest convenience make an examination of its
70 affairs. Having satisfied himself that all the conditions prece-
71 dent have in good faith been complied with the said commis-
72 sioner shall then issue to such credit union, under his hand and
73 official seal, a certificate of authority reciting that such exami-
74 nation has been made and that the credit union is authorized to
75 commence business and which certificate shall be displayed in
76 the business place of said credit union and for which certificate
77 of authority the said commissioner shall collect a fee of ten

78 dollars, which shall be turned into the state treasury as pro-
79 vided for such funds. But the commissioner may withhold
80 from any credit union his certificate authorizing the commence-
81 ment of business whenever he has reason to suppose that the
82 members have formed the same for any other than the legitimate
83 object contemplated in this act.

84 In order to simplify the organization of credit unions, the
85 said commissioner of banking shall upon the passage of this act
86 cause to be prepared an approved form of incorporation agree-
87 ment and a form of by-laws, consistent with this act, which may
88 be used by credit union incorporators for their guidance and
89 upon written request of any resident of the state of West Vir-
90 ginia, the said commissioner of banking shall supply him
91 without charge with two blank incorporation agreements and
92 two copies of said form of suggested by-laws.

Amendments

Sec. 2. Any and all amendments to the by-laws must be
2 approved by the commissioner of banking before they can
3 become operative.

Restriction of term Credit Union.

Sec. 3. The use by any person, co-partnership, association or
2 corporation, except corporations formed under the provisions of
3 this act, of any name or title which contain the words credit
4 union, shall be a misdemeanor, and punishable by a fine of
5 not less than ten nor more than one hundred dollars for each
6 day of the illegal use of such name, and may be enjoined by any
7 court having equity jurisdiction over the party or parties

Powers

Sec. 4. A credit union shall have the following powers:

2 (a) To receive the savings of its members either as pay-
3 ment on shares, or as deposits (including the right to conduct
4 Christmas clubs, vacation clubs and other such thrift organi-
5 zations within the membership).

6 (b) To make loans to members for provident or produc-
7 tive purposes.

8 (c) To make loans to a co-operative society or other organi-
9 zation having membership in the credit union.

- 10 (d) To deposit in state and national banks, and, to an ex-
11 tent which shall not exceed twenty-five per cent of its capital,
12 invest in the paid-up shares of building and loan associations
13 and of other credit unions.
- 14 (e) To invest in any investment legal for savings banks or
15 for trust funds in the state.
- 16 (f) To borrow money as hereinafter indicated.

Membership

Sec. 5. Credit union membership shall consist of the in-
2 corporators and such other persons as may be elected to mem-
3 bership and subscribe to at least one share, pay the initial in-
4 stallment thereon and the entrance fee. Organizations (incor-
5 porated or otherwise) composed for the most part of the same
6 general group as the credit union membership may be members.
7 Credit union organization shall be limited to groups (of both
8 large and small membership) having a common bond of occu-
9 pation, or association or to groups within a well-defined neighbor-
10 hood, community or rural district.

Reports, Examination.

Sec. 6. Credit unions shall be under the supervision of the
2 commissioner of banking. They shall report to him at least
3 semi-annually on or before the first day of January and the
4 first day of July of each calendar year on blanks supplied by
5 the state banking commissioner for that purpose. Additional re-
6 ports may be required. Credit unions shall be examined annual-
7 ly by the commissioner of banking except that, if a credit
8 union has assets of less than twenty five thousand dollars he may
9 accept the audit of a practicing public accountant in place of
10 such examination. Fees for such examination shall be fifteen
11 dollars for credit unions, with assets less than twenty five thou-
12 sand dollars; and twenty five dollars for credit unions if more
13 than twenty five thousand dollars in assets. For failure to file re-
14 ports when due, unless excused for cause, the credit union shall
15 pay to the treasurer of the state five dollars for each day of its
16 delinquency. If the commissioner of banking determines that
17 that the credit union is violating the provisions of this act, or
18 is insolvent, the commissioner of banking may serve notice
19 on the credit union of his intention to revoke the certificate of
20 approval. If for a period of fifteen days after said notice, said

21 violation continues, the commissioner of banking may revoke
22 said certificate and take possession of the business and property
23 of said credit union, and maintain possession until such time
24 as he shall permit it to continue business or its affairs are fin-
25 ally liquidated. He may take similar action if said report re-
26 mains in arrears for more than fifteen days.

Fiscal Year and Meetings; Regulations as to Voting.

Sec. 7. The fiscal year of every such corporation shall
2 end at the close of business on the thirty-first day of December.
3 The annual meeting of the corporation shall be held in Janu-
4 ary. Special meetings may be held by order of the directors or
5 of the supervisory committee, and shall be held upon request, in
6 writing, of ten per centum of the members. Notice of all
7 meetings of the corporation shall be given in the manner pre-
8 scribed in the by-laws. At all meetings of members a mem-
9 ber shall have but one vote, irrespective of the number of
10 shares held. No shareholder may vote by proxy, but a society,
11 association, co-partnership or corporation, having membership
12 in the credit union, may be represented by one person authorized
13 by said society, association, co-partnership, or corporation to so
14 represent it. At any meeting the members may decide upon any
15 question of interest to the corporation, and overrule the board
16 of directors, and by a three-fourths vote of those present and
17 represented, providing the notice of the meeting shall have
18 specified the question to be considered, may vote to amend the
19 by-laws.

Elections

Sec. 8. At the annual meeting the members shall elect a
2 board of directors of not less than five members, a credit com-
3 mittee and a supervisory committee of not less than three
4 members each. However, in the discretion of the members the
5 board of directors as such may also be the credit committee.
6 Except as herein specified, no member of said board shall be
7 a member of either of said committees, nor shall one person be
8 a member of more than one of said committees, and all mem-
9 bers of committees and all directors, as well as all officers whom
10 they may elect, shall be sworn, and shall hold their several
11 offices for such terms as may be determined by the by-laws.
12 The oath required of each director, officer and member of

13 committee, shall be the oath of the individual taking the same
14 that he will, as far as the duty devolves upon him, diligently
15 and honestly administer the affairs of such corporation, and will
16 not knowingly violate, or willingly permit to be violated any of
17 the provisions of law applicable to such corporation, and that
18 he is the owner in good faith and in his own right on the books
19 of the corporation of at least one share therein. Such oath
20 shall be subscribed by the individual making it, and certified by
21 the officer before whom it is taken, and shall immediately be
22 transmitted to the commissioner of banking and filed and
23 preserved in his office.

Directors and Officers; Compensation

Sec. 9. At their first meeting, and at each first meeting in
2 the fiscal year, the board of directors shall elect from their num-
3 ber a president, vice-president, a secretary and a treasurer.
4 The office of secretary and treasurer may, if the by-laws so
5 provide, be held by one person; and other officers may be elect-
6 ed in the discretion of the directors. The board of directors
7 shall have the general management of the affairs, funds and
8 records of the corporation, and shall meet as often as may be
9 necessary. Unless the by-laws shall specifically reserve all or
10 any of these duties to the members, it shall be the special duty
11 of the directors: (a) To act upon all applications for member-
12 ship and the expulsion of members; (b) to fix the amount of
13 the surety bond which shall be required of each officer having
14 the custody of funds. The surety on said bond shall be some
15 solvent surety company licensed to do business in West Vir-
16 ginia, and the amount thereof to be approved by the com-
17 missioner of banking; (c) to determine from time to time the
18 rate of interest which shall be allowed on deposits and charged
19 on loans; (d) to fix the maximum number of shares which may
20 be held by, and the maximum amount which may be loaned
21 to any one member; to declare dividends; and to recommend
22 amendments to the by-laws; (e) to fill vacancies in the board of
23 directors or in the credit committee until the election and qual-
24 ification of successors; (f) to have charge of the investment
25 of the funds of the corporation, and to perform such other
26 duties as the members from time to time authorize.

27 No member of the board of directors or of the credit or
28 supervisory committee shall receive any compensation for his
29 services as a member of said board or committee.

Credit committee

Sec. 10. The credit committee shall approve every loan or
2 advance made by the corporation to members. Every appli-
3 cation for a loan shall be made in writing on a form prepared
4 by the board of directors and shall state the purpose for which
5 the loan is desired and the security offered. No loan shall be
6 made unless it has received the unanimous approval of those
7 members of said committee who were present when it was
8 considered, which number shall constitute at least a majority
9 of the members of said committee, nor if any member of said
10 committee shall disapprove thereof, but the applicant for a loan
11 may appeal from the decision of the credit committee to the
12 board of directors. The credit committee shall meet as often
13 as may be required after due notice has been given to each
14 member.

Supervisory Committee; Audit and Report

Sec. 11. The supervisory committee shall inspect the se-
2 curities, cash and accounts of the corporation and supervise the
3 acts of the board of directors, credit committee and officers. At
4 any time the supervisory committee, by a unanimous vote, may
5 suspend the credit committee or any member thereof, or any
6 member or members of the board of directors, or any officer or
7 officers elected by the board, and by a majority vote they may
8 call a meeting of the shareholders to consider any violation
9 of this act or of the by-laws, or any practice of the corporation
10 which, in the opinion of said committee, is unsafe and un-
11 authorized. Within seven days after the suspension of the
12 credit committee, or any member thereof or of any director
13 or officer, the supervisory committee shall cause notice to be
14 given of a special meeting of the members to take action rela-
15 tive to such suspension. The supervisory committee shall fill
16 vacancies in their own number until the next meeting of the
17 members.

18 At the close of each fiscal year, the supervisory committee
19 shall make or cause to be made a thorough audit of the re-
20 ceipts, disbursements, income, assets and liabilities of the cor-

21 poration for the said fiscal year, and shall make a full report
22 thereon to the directors. Said report shall be read at the
23 annual meeting of the members and shall be filed and pre-
24 served with the records of the corporation.

Capital; Entrance Fee; Transfer Fee

Sec. 12. The capital of the credit union shall consist of the
2 payments that have been made to it by the several members
3 thereof on shares. The par value of the shares shall not ex-
4 ceed ten dollars per share and shall be paid for in money only.
5 Shares may be subscribed for and paid in such manner as the
6 by-laws shall prescribe, not inconsistent with the provisions of
7 this act. A credit union shall have a lien on the shares of any
8 member and upon any dividends payable thereon for and to
9 the extent of any loan made to him and of any dues and fines
10 payable by him. A credit union may, upon the resignation or
11 expulsion of a member, cancel the shares of such member and
12 apply the withdrawal value of such shares towards the liquida-
13 tion of the said members' indebtedness.

14 A credit union may, if the by-laws so provide, charge an en-
15 trance fee for each share subscribed, to be paid by the share-
16 holder upon his election to membership.

17 Fully paid shares of a credit union may be transferred to any
18 person on election to membership upon such terms as the by-
19 laws may provide, and the payment of a transfer fee which
20 shall not exceed twenty-five cents per share.

Shares and Deposits of Minors and in Trust

Sec. 13. Shares may be issued and deposits received in the
2 name of a minor, and such shares and deposits may be with-
3 drawn by such minor, and in such case payments made on such
4 withdrawals shall be valid. If shares are held or deposits
5 made in trust, the name and residence of the beneficiary shall
6 be disclosed and the account shall be kept in the name of such
7 holder as trustee for such person. Such shares and deposits
8 may, upon the death of the trustee, be withdrawn by the per-
9 son for whom the shares were held or from whom such deposits
10 were made by his legal representatives.

Charges and Penalties

Sec. 14. For failure by any member of a credit union to meet
2 his payments on shares when due, such charges and other

3 penalties may be imposed upon the delinquent member as the
4 by-laws provide. Such charges shall not exceed one and one-
5 half per centum per month or a fraction thereof on amounts
6 due, except that a minimum charge of five cents per month
7 may be imposed.

Deposits

Sec. 15. A credit union may receive the savings and deposits
2 of its members in such amounts and upon such terms as the
3 board of directors may determine and the by-laws shall pro-
4 vide. A credit union may also receive deposits from non-
5 members, subject to such terms as the by-laws may provide.

Rates of Interest

Sec. 16. A credit union may lend to its members at rea-
2 sonable rates, or invest as hereinafter provided, the funds ac-
3 cumulated. The rates of interest shall not exceed one and one-
4 half per centum per month, computed on unpaid balances.

Power to Borrow

Sec. 17. If the by-laws so provide, a credit union shall have
2 the power to re-discount, as hereinafter provided, or to borrow
3 money from any source, in addition to receiving deposits, as
4 indicated in section fifteen, but the aggregate amount of such
5 re-discounts and borrowings shall at no time exceed the sum
6 total of the capital, surplus and reserve funds of such bor-
7 rowing credit union.

Investment of Funds

Sec. 18. The capital deposits, undivided profits and reserve
2 funds of the corporation may be invested in the following ways,
3 and in such ways only: (a) Loaned to members of the cor-
4 poration in accordance with the provisions of this act; (b)
5 deposited to the credit of the corporation in other credit unions
6 chartered by this state, state banks or trust companies, incor-
7 porated under the laws of this state, or in national banks operat-
8 ing in this state; (c) not more than ten per centum of the
9 capital stock and reserve fund of a credit union may be in-
10 vested in the stock of other credit unions; (d) invested in any
11 investment which is legal for savings banks in the state of
12 West Virginia.

Loans

Sec. 19. As provided in section eighteen, a credit union
2 may loan to its members for such purposes and upon such se-
3 curity and terms as the by-laws shall provide and the credit
4 committee shall approve; but security must be taken for any
5 loan in excess of fifty dollars. Endorsement of a note or as-
6 signment of shares in any credit union shall be deemed se-
7 curity in the meaning of this section.

8 A member who needs funds with which to purchase neces-
9 sary supplies for growing crops may receive a loan in fixed
10 monthly installments instead of in one sum.

11 The supervisory committee shall appoint a substitute to
12 act on the credit committee in the place of any member in case
13 such member makes application to borrow money from a credit
14 union or become surety for any other member whose applica-
15 tion for a loan is under consideration. All officers and mem-
16 bers of any committee in any way knowingly permitting or
17 participating in making a loan of funds of a credit union to a
18 non-member thereof shall be guilty of a misdemeanor. The credit
19 union shall have the right to recover the amount of such ille-
20 gal loans from the borrower or from any officer or member
21 of committees who knowingly committed or participated in the
22 making thereof, or from all of them jointly.

23 A borrower may repay the whole or any part of his loan on
24 any day on which the office of the corporation is open for the
25 transaction of business.

Reserve Fund

Sec. 20. All entrance fees, transfer fees and charges shall,
2 after the payment of organization expenses, be known as re-
3 serve income, and shall be added to the reserve fund of the cor-
4 poration.

5 At the close of each fiscal year there shall be set apart to
6 the reserve fund twenty per centum of the net income of the
7 corporation which has accumulated during the year. But upon
8 the recommendation of the board of directors, the members of
9 an annual meeting may increase, and whenever said funds
10 equal the amount of the capital may decrease, the proportion
11 of profits which is required by this section to be set apart
12 to the reserve fund.

13 The reserve fund shall belong to the corporation and shall
14 be held to meet contingencies, and shall not be distributed to
15 the members, except upon dissolution of the corporation.

Dividends

Sec. 21. At the close of the fiscal year a credit union may
2 declare a dividend upon the net earnings. Dividends shall
3 be paid on all fully paid shares outstanding at the close of the
4 fiscal year, but shares which become fully paid during the year
5 shall be entitled to a proportional part of said dividend cal-
6 culated from the first day of the month following such pay-
7 ment in full.

Notes, Drafts, Bills of Exchange

Sec. 22. Notes, drafts and bills of exchange, executed for
2 the purpose of this act, having a maturity not to exceed six
3 months, and endorsed by a national bank, a state bank or
4 trust company, may be re-discounted in the open market. The
5 total of such paper outstanding shall at no time exceed the
6 paid-in capital and surplus; *provided, however*, that the state
7 banking commissioner in his discretion may extend this limit
8 temporarily; and, *provided, further*, that the limitation here
9 fixed shall not be considered money borrowed under section
10 seventeen.

Expulsion and Withdrawal

Sec. 23. At any regularly called meeting, the members by
2 a two-thirds vote of those present, may expel from the cor-
3 poration any member thereof; but such expulsion shall be made
4 only after a hearing on the part of the member to be expelled.
5 A member may withdraw from a credit union, or a non-mem-
6 ber may withdraw deposits, as hereafter provided, by filing a
7 written notice of such intention.
8 All amounts paid in on shares of an expelled or withdrawn
9 member, with any dividends credited to his shares to the date
10 of expulsion or withdrawal, shall be paid to such member
11 in the order of expulsion or withdrawal and only as funds
12 therefor become available, after deducting any amounts due
13 to the corporation by said member. All deposits of an ex-
14 pelled or withdrawn member, with any interest accrued, shall
15 be paid to such member, subject to sixty days notice, and after
16 deducting any amounts due the corporation by said member. Said

17 member when withdrawing shares or deposits, shall have no
18 other or further right in said credit union, or to any of its bene-
19 fits, but such expulsion or withdrawal shall not operate to relieve
20 said member from any remaining liability to the corporation.

Dissolution

Sec. 24. The process of voluntary dissolution shall be as
2 follows:

3 (a) At a meeting called for the purpose (notice of which
4 purpose must be contained in the call) four-fifths of the en-
5 tire membership of the credit union may vote to dissolve the
6 credit union.

7 (b) Thereupon, they file with the said secretary of state
8 a statement of their consent to dissolution, attested by a ma-
9 jority of the officers and including the names and addresses of
10 the officers and directors.

11 (c) The commissioner of banking determines whether or
12 not the credit union is solvent. If such is the fact, he causes
13 to be issued in duplicate, a certificate to the effect that this
14 section has been complied with.

15 (d) The certificate is filed with the county clerk of the
16 county in which the credit union is located, whereupon the
17 credit union is dissolved and shall cease to carry on business,
18 except for the purpose of liquidation.

19 (e) The credit union shall continue in existence for the
20 purpose of discharging its debts, collecting and distributing
21 its assets and doing all other acts required, in order to wind
22 up its business, and may sue, and be sued for the purpose of
23 enforcing such debts and obligations until its affairs are fully
24 adjusted and wound up, for three years.

Change of Place of Business

Sec. 25. A credit union may change its place of business on
2 written notice to and approval of the commissioner of banking.

Sec. 26. Any violation of this act shall be deemed a misde-
2 meanor and any person convicted thereof shall be fined not less
3 than one hundred dollars nor more than five hundred dollars
4 and imprisoned in the county jail not less than one month nor
5 more than six months. All acts and parts of acts inconsistent
6 with this act in so far as they affect credit unions only, are
7 hereby repealed.

CHAPTER 37

(Senate Bill No. 74—By Mr. Yoho)

AN ACT to amend and re-enact section ninety-five of chapter thirty-five of the acts of the West Virginia legislature of one thousand nine hundred and five, being section ninety-five of chapter twenty-nine of the Barnes West Virginia code of one thousand nine hundred and twenty-three, relating to the apportionment of value of public service corporations between districts and municipalities.

[Passed April 15, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

95. Auditor to certify value of property to county courts; county court to apportion value between

districts and independent school districts, and also to each municipal corporation in county; notice to municipal corporation.

Be it enacted by the Legislature of West Virginia:

That section ninety-five of chapter thirty-five of the acts of the West Virginia legislature of one thousand nine hundred and five, being section ninety-five of chapter twenty-nine of the Barnes' West Virginia code of one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 95. In case the list and valuation of the property 2 filed with the auditor, as aforesaid, be satisfactory to the board 3 of public works, or in case assessment of the property of such 4 owner or operator is made by the board of public works as 5 aforesaid, the auditor shall immediately certify to the county 6 court of each county, in which any part of the property lies, 7 the value of the property therein of every such owner or opera- 8 tor as valued or assessed as aforesaid, and it shall be the duty 9 of such court to apportion the whole of such value between 10 the districts and independent school districts in their county 11 in which any part of said property is situated, according to 12 the value thereof, as near as may be, and then a proportional 13 valuation to each municipal corporation in their county, in 14 which any part of said property is situated, according to the 15 value thereof, or as near as may be; *provided, however*, such 16 county court, before making any such apportionment to any 17 such municipal corporation, shall give written notice to such 18 municipal corporation at least five days before the date of 19 such apportionment, stating the date the said apportionment 20 is to be made, the names of such owner or operator and the 21 total valuation placed on the said property by the board of 22 public works.

CHAPTER 38

(Senate Bill No. 141—By Mr. Johnson)

AN ACT to amend and re-enact section one hundred and three of chapter twenty-nine of Barnes' code of one thousand nine hundred and twenty-three, relating to taxes of public service corporations.

[Passed April 21, 1925; in effect 90 days from passage. Approved by the Governor.]

<p>Sec. 103. Auditor to account to sheriff for tax money in treasury; settle-</p>		<p>ment; sheriff to account to county court; added to school fund; payment.</p>
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Be it enacted by the Legislature of West Virginia:

That section one hundred and three of chapter twenty-nine of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 103. When such taxes and levies are paid into the 2 treasury, as herein provided, the auditor shall account to the 3 sheriff of each of the counties, to which any sum so paid in 4 for county levies belongs, for the amount due such county, and 5 may arrange the same with such sheriff in any settlement for 6 state taxes in such a way as may be most convenient; and the 7 sheriff shall account to the county court of his county for the 8 amount so received by him, in the same manner as for other 9 county levies. The amount so paid for each district and inde- 10 pendent school district shall be added to the distributable share 11 of the school fund payable to such district, and shall be paid 12 upon the requisition of the county superintendent of free 13 schools in like manner as other school moneys are paid.

CHAPTER 39

(Senate Bill No. 142—By Mr. Johnson)

AN ACT to amend and re-enact section thirty-six of chapter forty-seven of Barnes' code of one thousand nine hundred and twenty-three, relating to delinquent lists of cities, towns and villages.

[Passed April 21, 1925; in effect from passage. Approved by the Governor.]

<p>Sec. 36. Lien for taxes; interest upon unpaid taxes; enforcement of lien; lien for assessments, fines and penalties; priority; enforcement;</p>		<p>property returned delinquent; sale for taxes; certification to auditor and clerk of county court; recording and compensation for same.</p>
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Be it enacted by the Legislature of West Virginia:

That section thirty-six of chapter forty-seven of Barnes' code of one thousand nine hundred and twenty-three, relating to delinquent lists of cities, towns and villages, be amended and re-enacted so as to read as follows:

Section 36. There shall be a lien on all real estate within 2 such city, town or village for the city, town or village taxes 3 assessed thereon, from the day fixed by law for the commence- 4 ment of the assessment of such taxes in each year, and the in- 5 terest upon such taxes, at the rate of six per centum per annum 6 from the first day of January next after such assessment until 7-8 payment, which may be enforced by the council in the same 9 manner now provided by law for the enforcement of the lien 10 for state or county taxes, or in such other manner as the coun- 11 cil may by ordinance prescribe. There shall also be a lien on 12 all real estate within such city, town or village for other assess- 13 ments, fines and penalties assessed or imposed upon the owners 14 thereof by the authorities of such city, town or village from the 15 time the same are so assessed or imposed, which shall have 16 priority over all other liens except the lien for taxes, and may 17 be enforced by the council by suit in equity, in the corporate 18 name of the town, in the same manner now prescribed by law 19 for the enforcement of the lien for state and county taxes, or in 20 such other manner as the council may by ordinance prescribe. 21 If any real estate within such city, town or village be returned 22 delinquent for the non-payment of the taxes thereon, a copy 23 of such delinquent list may be certified by the council to the 24 auditor, and said real estate may be sold for the taxes, interest 25 and commissions thereon, in the same manner, at the same time 26 and by the same officer as real estate is sold for the non-pay- 27 ment of state taxes; *provided*, that any such delinquent real 28 estate list of any city, town or village that may be certified to 29 the auditor as herein provided shall be so certified to him 30 before the first day of September in the year next succeeding 31 that for which said taxes were assessed; and, *provided, further*, 32 that in all cases where a delinquent list of real estate is certified 33 to the auditor, as aforesaid, said council shall at the same 34 time certify a like list to the clerk of the county court of the 35 county wherein said real estate is situated and returned delin- 36 quent by such council; and it shall be the duty of said clerk

37 to forthwith record the list so certified to him in the record
 38 of delinquent real estate kept in his office, and in which is
 39 recorded the delinquent list of real estate returned by the
 40 sheriff of his county. Said council shall pay to said clerk for
 41 recording said list a reasonable compensation therefor, not to
 42 exceed one cent for each parcel of real estate so certified to him
 43 and twenty-five cents for recording the certificate to said list.

CHAPTER 40

(Senate Bill No. 144—By Mr. Johnson)

AN ACT to amend and re-enact section twenty-eight of chapter thirty of Barnes' code of one thousand nine hundred and twenty-three relating to payments into the treasury by sheriffs.

[Passed April 21, 1925; in effect 90 days from passage. Approved by Governor.]

Sec. 28.	Payment of taxes into state treasury by sheriffs; when; delivery		of tax books to sheriff or collector.
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Be it enacted by the Legislature of West Virginia:

That section twenty-eight of chapter thirty of Barnes' code of one thousand nine hundred and twenty-three relating to payments into the treasury by sheriffs, be amended and re-enacted so as to read as follows:

Section 28. The taxes which by this chapter are directed
 2 to be collected for the state shall be paid into the treasury by
 3 the sheriff as follows: One-half of all such taxes shall be paid
 4 by him before the first day of January of the year following
 5 that for which the taxes were assessed; one-fourth on or before
 6 the first day of May following, and the remainder on or before
 7 the first day of the following August, save only as follows: A
 8 sheriff or collector who may not have qualified, or who may
 9 not have received the land and property books before the first
 10 day of October, or who shall be prevented by legal process from
 11 collecting said taxes, shall be allowed six months from his qual-
 12 ification, or the delivery of said books to such sheriff or col-
 13 lector or from the removal of such legal restraint, to pay the
 14 said first installment into the treasury; eight months for the
 15 second, and ten months for the third installment of the taxes
 16 with which he is chargeable.

CHAPTER 41

(Senate Bill No. 156—By Mr. Baker)

AN ACT to amend and re-enact sections sixty-five and sixty-six of chapter thirty-four of Barnes' code of one thousand nine hundred and twenty-three changing time of companies to file annual tax returns.

[Passed April 23, 1925; in effect 90 days from passage. Approved by Governor.]

<p>Sec. 65. Make annual return of gross amount of premiums collected or received the previous calendar year; pay tax; when.</p>	<p>Sec. 66.</p>	<p>Foreign companies to make annual returns of premiums collected and received; when; state license tax; bond of resident manager.</p>
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Be it enacted by the Legislature of West Virginia:

That sections sixty-five and sixty-six of chapter thirty-four of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 65. Every insurance company or association incorporated by or organized under the laws of any other state, and admitted to transact business in this state, shall return annually, on or before the first day of March, under the oath of its president or secretary, the gross amount of premiums collected and received by it for the previous calendar year of business done in this state; and upon receiving from said commissioner a certificate of the acceptance of said return and the amount of tax due thereon, said company shall pay said tax to the insurance commissioner, on or before the first day of March, and the insurance commissioner may, if he deems best, require from every such company a bond with surety for the payment of said tax.

Sec. 66. Every insurance company or association incorporated by or organized under the laws of any foreign government, which shall have received a license to transact business in this state, shall return annually on or before the first day of March, under oath, to said commissioner, the gross amount of premiums collected and received by such company or association for the previous calendar year of business done in this state; and the resident manager shall annually, on or before the first day of March, pay to the insurance commissioner of this state a license tax of two per centum upon the amount of

11 premiums so collected or accrued, and the commissioner may,
12 if he deems best, require from every such resident manager a
13 bond with surety for the payment of said tax.

CHAPTER 42

(Senate Bill No. 307—By Mr. Baker)

AN ACT to amend and re-enact section three of chapter fourteen
of the acts of one thousand nine hundred and twenty-three,
relating to limitation of bonded indebtedness.

[Passed April 17, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

3. Amount of debts by bonds limited;
exceptions in municipalities;
"sewering" defined.

Be it enacted by the Legislature of West Virginia:

That section three of chapter fourteen of the acts of one thousand nine hundred and twenty-three, relating to limitations of bonded indebtedness, be amended and re-enacted so as to read as follows:

Section 3. No political division herein authorized to issue
2 bonds shall by any bond issue become indebted to an amount,
3 including all other indebtedness, exceeding two and one-
4 half per centum of the value of the taxable property therein,
5 as shown by the last assessment thereof for state and county
6 purposes next prior to the issuing of said bonds; *provided,*
7 *however,* that any county, magisterial district or any group
8 of magisterial districts for the construction, reconstruction,
9 locating, relocating, draining or grading of any county-district
10 road, or bridges thereon, and any municipal corporation of one
11 thousand inhabitants or more, for the purpose of grading,
12 paving, sewerage, and otherwise improving its streets and
13 alleys, and for municipally owned water and light plants and
13-a other municipally owned utilities may become in-
14 debted and issue bonds in an additional sum not ex-
15 ceeding two and one-half per centum of the value of the tax-
15-a ble property therein, ascertained as aforesaid.

16 The term "sewerage" as used herein shall be treated in a
17 comprehensive sense, so as to include all mains, laterals, con-

18 nections, traps, incinerating and disposal plants, and other
 19 necessary and convenient accessories to a modern, sanitary and
 20 efficient sewerage system; and shall include storm sewers.

CHAPTER 43

(Senate Bill No. 334—By Mr. Hugus)

AN ACT to amend and re-enact section eighty-four of chapter
 twenty-nine of the code of West Virginia relating to the as-
 sessment of taxes, and to repeal section fourteen of chapter
 fifteen-o of Barnes' code of West Virginia of one thousand
 nine hundred and twenty-three.

[Passed April 23, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 84. Public service corporations; re- turns of property to board of pub- lic works; definition of "rail- road," and "owner or operator,"		as applied to both railroad and express companies; jurat on re- turns; regulations governing re- turn; repeal of inconsistent act.
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Be it enacted by the Legislature of West Virginia:

That section eighty-four of chapter twenty-nine of the code of
 West Virginia be amended and re-enacted so as to read as fol-
 lows:

*Public Service Corporations; Returns of Property to Board of
 Public Works*

Section 84. On or before the first day of April in each year
 2 a return in writing to the board of public works shall be de-
 3 livered to the state tax commissioner by the owner or opera-
 4 tor of every railroad, wholly or in part within this state; by
 5 the owner or operator of every railroad bridge upon which
 6 a separate toll or fare is charged; by the owner or operator of
 7 every car or line of cars used upon any railroad within the
 8 state for transportation or accommodation of freight or pas-
 9 sengers, other than such owners or operators as may own or
 10 operate a railroad within the state; by the owner or operator of
 11 every express company or express line, wholly or in part with-
 12 in this state, used for the transportation by steam or other-
 13 wise of freight and other articles of commerce; by the owner
 14 or operator of every pipe line, wholly or in part within this
 15 state, used for the transportation of oil or gas or water, whether

16 such oil or gas or water be owned by such owner or operator or
17 not, or for the transmission of electrical or other power, or the
18 transmission of steam or heat and power or of articles by pneu-
19 matic or other power; and by the owner or operator of every
20 telegraph or telephone line, wholly or in part within this state,
21 except private lines not operated for compensation, and by the
22 owner or operator of every gas company and electric lighting
23 company furnishing gas or electricity for lighting, heating
24 or power purposes; and hydro-electric companies for the gen-
25 eration and transmission of light, heat or power; water com-
26 panies furnishing and distributing water, and all other public
27 service corporations or persons engaged in public service busi-
28 ness whose property is located wholly or in part within this
29-38 state. The words "owner or operator" as ap-
39 plied herein to railroad companies, shall include every rail-
40 road company incorporated by or under the laws of this state
41 for the purpose of constructing and operating a railroad, or
42 of operating part of a railroad within this state, whether such
43 railroad or any part of it be in operation or not; and shall
44 also include every other railroad company, or persons or asso-
45 ciations of persons, owning or operating a railroad or part of
46 a railroad in this state on which freight or passengers, or both,
47 are carried for compensation. The word "railroad," as used
48 herein includes every street, city, suburban or electric or other
49 railroad, or railway. The words "owner or operator" as ap-
50 plied herein to express companies shall include every express
51 company incorporated by or under the laws of this state, or
52 doing business in this state, whether incorporated or not, and
53 any person or association of persons, owning or operating any
54 express company or express line upon any railroad or other-
55 wise, doing business partly or wholly within this state. Such
56 return shall be signed and sworn to by such owner or operator
57 if a natural person, or, if such owner or operator shall be a
58 corporation, shall be signed and sworn to by its president,
59 vice-president, secretary or principal accounting officer.

60 The return required by this section of every such owner or
61 operator shall cover the year ending on the thirty-first day of
62 December, next preceding, and shall be made on forms pre-
63 scribed by the board of public works which board is hereby
64 invested with full power and authority and it is hereby made
65 its duty to prescribe such forms as will require from any own-

66 er or operator herein mentioned such information, as in the
67 judgment of the board, may be of use to it in determining the
68 true and actual value of the properties of such owners or oper-
69 ators. And the board of public works shall give due consider-
70 ation to any return filed in compliance with this section, but any
71 such return shall not necessarily constitute the sole base for as-
72 sessment purposes, it being the intention of this act that the
73 board's rights, duties, methods and sources of information as
74 regards returns to be filed hereunder or as regards any addi-
75 tional information or as regards the ascertainment of the value
76 of or the assessment of any property shall be limited only by the
77 provisions contained in the whole of this chapter.

Section fourteen of chapter fifteen-o of Barnes' code of West Virginia of one thousand nine hundred and twenty-three is hereby repealed.

CHAPTER 44

(Senate Bill No. 409—By Mr. Marsh)

AN ACT authorizing the issuance and sale of bonds of the state of West Virginia in amount equal to the aggregate face value of any bonds which hereafter may be redeemed of the bonds issued under and pursuant to the provisions of chapter one hundred and thirteen of the acts of the legislature of one thousand nine hundred and twenty-one, regular session, chapter four, of the acts of the legislature of one thousand nine hundred and twenty-three, regular session, and House Bill No. one hundred and seventy-three enacted into law by the legislature of West Virginia at its one thousand nine hundred and twenty-five regular session, and approved by the governor on January twenty-eighth, one thousand nine hundred and twenty-five, but not exceeding in the aggregate fifteen million dollars, to raise money for road construction purposes under and by virtue of the "Good roads amendment" to the constitution adopted at the general election held in November, one thousand nine hundred and twenty; and to provide for the levy and collection of an annual state tax and other revenues sufficient to pay semi-annually the interest on said bonds and the principal thereof when due and payable.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.	Sec.
1. Governor authorized and directed to issue bonds for road purposes when outstanding bonds are redeemed.	6. Creating state road sinking fund; payments into same; application.
2. Dates of bonds: duration; type and denomination; transfer; payment; interest.	7. State levy for payment of bonds; special revenue may be used; power of board of public works.
3. Style or form of bond.	8. Sale of bonds at par; interest.
4. Style or form of coupon; signature; registered bonds.	9. Engraving plates property of state.
	10. Expenses of act paid out of state road fund.
	11. Auditor custodian of unsold bonds.

Be it enacted by the Legislature of West Virginia:

That additional state road bonds are hereby authorized as follows:

Section 1. That whenever any of the bonds of the state of West Virginia issued under and by virtue of chapter one hundred and thirteen of the acts of the legislature of one thousand nine hundred and twenty-one, regular session, chapter four of the acts of the legislature of one thousand nine hundred and twenty-three, regular session, and House Bill number one hundred and seventy-three, enacted into law by the legislature of West Virginia at its one thousand nine hundred and twenty-five regular session and approved by the governor on January twenty-eighth one thousand nine hundred and twenty-five, are paid and redeemed, the governor, upon the recommendation of the state road commission, at such time or times as he may determine necessary to provide funds for state road construction purposes, is authorized, empowered and directed, to issue and sell bonds of the state of West Virginia in amount equal to the par value of the bonds so redeemed, but not exceeding in the aggregate fifteen million dollars, for the purpose of raising funds to build, construct and maintain a system of state roads and highways in the state of West Virginia as authorized by the "Good roads amendment" to the constitution of said state, adopted at the general election held in November, one thousand nine hundred and twenty. *Provided, however,* that bonds shall not be issued hereunder in such amount as will cause the outstanding bonds for road purposes to exceed at any one time fifty million dollars.

Sec. 2. Said bonds shall bear a date corresponding with the maturities of the bonds, the redemption of which their issuance is contingent upon, and shall become due and payable twenty years from their date; except that, in the event any bonds are redeemed prior to the date of their maturity,

6 bonds issued hereunder equal in amount to those so redeemed
7 shall bear a date to be determined by the governor, and be-
8 come payable at the time those so redeemed would have ma-
9 tured had they not been discharged by payment.

10 Bonds issued hereunder may be coupon or registered bonds
11 and of such denomination as the governor may determine.

12 The auditor and treasurer are authorized to arrange for the
13 transfer of registered bonds and for each such transfer a fee
14 of fifty cents shall be charged by and paid to the state of
15 West Virginia to the credit of the "State road sinking fund."
16 Bonds taken in exchange shall be cancelled by the auditor
17 and treasurer and carefully preserved by the treasurer.

18 All of such bonds shall be payable at the office of the treas-
19 urer of the state of West Virginia, or, at the option of the
20 holder of said bonds, at some designated bank in the City of
21 New York, to be designated by the governor. Said bonds
22 shall be interest bearing at the rate of not exceeding five per
23 cent per annum, and the said interest shall be payable semi-
24 annually, on dates corresponding with the date of the bonds
25 and six months thereafter, in each year, to bearer at the office
26 of the treasurer of the state of West Virginia, at the capitol
27 of said state, or, at the option of the holder at some desig-
28 nated bank in New York city, to be designated by the governor,
29 upon presentation and surrender of the interest coupons rep-
30 resenting interest then due, in the case of coupon bonds. In
31 the case of registered bonds, the treasurer of the state of West
32 Virginia shall issue his checks for the payment of interest on
33 the dates interest becomes due in each year, on the amount
34 of registered bonds outstanding as shown by the records of his
35 office.

36 Both the principal and interest of said bonds shall be pay-
37 able in gold coin of the United States of the present standard
38 of weight and fineness. All said bonds shall be exempt from
39 taxation by the state of West Virginia, or by any county, dis-
40 trict or municipality thereof, which fact shall appear on the
41 face of the bonds as part of the contract with the holder there-
42 of.

Sec. 3. Said bonds and coupons shall be engraved, and the
2 bonds shall be signed on behalf of the state of West Vir-
3 ginia, by the treasurer thereof, under the great seal of the
4 state, and countersigned by the auditor. They shall be desig-

5 nated as a series of the year in which they are issued, and shall
 6 be in the following form, or to the following effect, as near
 7 as may be, namely:

8 COUPON GOLD BONDS
 9 (or Registered Gold Bonds, as the case may be)
 10 OF THE
 11 STATE OF WEST VIRGINIA
 12 SERIES OF

13 \$..... No.....

14 The State of West Virginia, under and by virtue of author-
 15 ity of an act of the Legislature passed at its regular session
 16 of one thousand nine hundred and twenty-five, on the
 17 day of, one thousand nine hundred and twenty-
 18 five and approved by the governor on the day of
 19, one thousand nine hundred and twenty-five,
 20 reference to which is hereby made as fully and at length as
 21 if set forth herein, acknowledges itself to be indebted to, and
 22 hereby promises to pay to the bearer hereof, (in the case of
 23 coupon bonds) or to, or assigns, (the owner of
 24 record, in the case of registered bonds), years after
 25 the date of this bond, to-wit: on the day of,
 26 nineteen, in gold coin of the United States of
 27 America of the present standard of weight and fineness, at
 28 the office of the treasurer of the state of West Virginia, at the
 29 capitol of said state, or at the option of the holder at
 30 bank, in the City of New York, the sum of \$....., with
 31 interest thereon atper centum per annum from
 32 date, payable semi-annually, in gold coin of the United States
 33 of America, at the treasurer's office or bank aforesaid, on the
 34day of and day ofof
 35 each year, (and in case of coupon bonds) according to the
 36 tenor of the annexed bonds, bearing the engraved *fac-simile*
 37 signature of the treasurer of the state of West Virginia.

38 To secure the payment of this bond, principal, sum and in-
 39 terest, when other funds and revenues sufficient are not avail-
 40 able for that purpose, it is agreed that the board of public
 41 works of the state of West Virginia shall annually cause to be
 42 levied and collected an annual state tax on all property in the
 43 state, until said bonds are fully paid, sufficient to pay the
 44 annual interest on said bonds and the principal sum thereof
 45 within the time this bond becomes due and payable.

46 This bond is hereby made exempt from any taxation by the
47 state of West Virginia, or by any county, district, or municipal
48 corporation thereof.

49 Witness the signature of, treasurer of the state
50 of West Virginia, and the counter signature of,
51 auditor of said state, hereto affixed according to law, dated
52 the day of, one thousand nine hun-
53 dred and and the seal of the state of West Vir-
54 ginia.

55 (Seal)

56

57 Treasurer of the State of West Virginia.

58 Countersigned:

59

60 Auditor of the State of West Virginia.

Sec. 4. The form of coupons shall be substantially as fol-
2 lows:

3 STATE OF WEST VIRGINIA

4 Bond No. Coupon No.

5 On the day of nineteen.....
6 the state of West Virginia will pay to bearer, in gold coin
7 of the United States of America of the present standard of
8 weight and fineness, at the office of the treasurer of the state,
9 or at the option of the holder at bank in New
10 York city, the sum of \$....., the same being the semi-
11 annual interest on its bond No., series of one
12 thousand nine hundred and

13

14 Treasurer of the State of West Virginia.

15 The signature of the treasurer to said coupons shall be by
16 his engraved *fac-simile* signature, and each coupon shall be
17 impressed on the back with its number in order of maturity
18 from number one consecutively. Said bonds and coupons may
19 be signed by the present treasurer and auditor, or by any of
20 their respective successors in office; but no change in such sig-
21 natures shall be necessary by reason of any change of said
22 officers.

23 All coupons and registered bonds issued under this act shall
24 be separately listed by the auditor of the state in books pro-
25 vided for the purpose, in each case giving the date, number,

26 character and amount of the obligations issued, and, in case
27 of registered bonds, the name of the person, firm, or corpora-
28 tion to whom issued.

Sec. 6. Whenever any bonds are issued and sold under
2 these provisions of this act, a fund shall be created, designated
3 as the "State road sinking fund." Into this fund shall be
4 paid all moneys received from the annual state levy on the
5 taxable property in the state for state road sinking fund pur-
6 poses, from any and all appropriations made by the state from
7 other sources for the purpose of paying the interest on said
8 bonds or paying off and retiring same, from fines, forfeitures
9 and penalties, if any made applicable by law for the payment
10 of said bonds or the interest thereon, from transfer fees as
11 herein provided, and from any source whatsoever, which is
12 made liable by law for the payment of the principal of said
13 bonds or the interest thereon.

14 All such funds shall be kept by the treasurer in separate ac-
15 count. under the designation aforesaid, and all money be-
16 longing to said fund shall be deposited in the state treasury to
17 the credit thereof.

18 Said fund shall be applied by the treasurer of the state,
19 first to the payment of the semi-annual interest on said bonds
20 as it becomes due as herein provided. The remainder of said
21 fund shall be turned over by the state treasurer to state sink-
22 ing fund commission, whose duty it shall be to invest the
23 same in the bonds of the government of the United States, the
24 bonds of the state of West Virginia, or any political subdi-
25 vision thereof; *provided, however*, that bonds so purchased by
26 the said sinking fund commission shall mature so as to pro-
27 vide sufficient money to pay off all bonds herein provided to
28 be issued as they may become due; and said state road sinking
29 fund shall be expended for the purpose of paying the interest
30 and principal of the bonds hereby provided for, and for no
31 other purpose, except that said fund may be invested until
32 needed, as herein provided.

Sec. 7. In order to provide the revenue necessary for the
2 payment of the principal and interest of said bonds, when
3 issued, as hereinbefore provided, the board of public works is
4 authorized, empowered and directed to lay annually a tax upon
5 all real and personal property subject to taxation within this
6 state, sufficient to pay the interest on said bonds accruing dur-

7 ing the current year and create a fund sufficient to pay off the
8 principal sum of said bonds at maturity, when so collected,
9 shall not be liable for or applicable to any other purpose.

10 *Provided, however,* if there be other funds in the state
11 treasury, or in the state road fund, in any fiscal year, not other-
12 wise appropriated, or if other sources of revenue be here-
13 after provided by law for the purpose, the board of public
14 works is authorized, empowered and directed to set apart, in
15 any year there be such funds, or other sources of revenue pro-
16 vided for such purpose, a sum sufficient to pay the interest on
17 said bonds accruing during the current year, and to pay off
18 and retire the principal of said bonds, or any part thereof, at
19 maturity.

20 The authority hereby vested in the board of public works
21 shall be in addition to the authority now vested in it by
22 present law.

Sec. 8. All sales of bonds issued hereunder shall be at not
2 less than par and interest accrued since the last semi-annual
3 interest period. All interest coupons becoming payable prior
4 to said sales date shall be cancelled by the treasurer and
5 rendered ineffective before the delivery of the bonds so sold.
6 Registered bonds shall bear interest only from the date of de-
7 livery.

Sec. 9. The plates from which the bonds authorized by this
2 act are printed shall be the property of the state of West
3 Virginia.

Sec. 10. All necessary expenses incurred in the execution
2 of this act shall be paid out of any money in the treasury
3 of the state of West Virginia, not otherwise appropriated, be-
4 longing to the state road fund, on warrants of the auditor of
5 the state drawn on the state treasurer.

Sec. 11. The state auditor shall be the custodian of all un-
2 sold bonds issued pursuant to the provisions of this act.

CHAPTER 45

(House Bill No. 105—By Mr. Pence)

AN ACT to amend and re-enact section fourteen-~~a~~-one of chapter
thirty-four of the acts of one thousand nine hundred and

thirteen, as amended by chapter eighty-two of the acts of one thousand nine hundred and twenty-one.

[Passed April 23, 1925 ; in effect 90 days from passage. Approved by the Governor.]

Sec. 14-a-1. Time within which to distraint | and sell; collection; collection in case of removal, manner of.

Be it enacted by the Legislature of West Virginia:

That section fourteen-a-one of chapter thirty of the code of West Virginia, as amended by chapter thirty-four of the acts of one thousand nine hundred and thirteen, and also as amended by chapter eighty-two of the acts of one thousand nine hundred and twenty-one, be amended and re-enacted so as to read as follows:

Section 14-a-1. The sheriffs of the several counties of the state of West Virginia whose term of office expired on the thirty-first day of December, one thousand nine hundred and twenty-four, shall be allowed until the thirty-first day of December, one thousand nine hundred and twenty-six, within which to make distraint and sale for collection of taxes, with interest thereon, and cost of collection, not returned delinquent for the years one thousand nine hundred and twenty-one, one thousand nine hundred and twenty-two, one thousand nine hundred and twenty-three and one thousand nine hundred and twenty-four; and the said sheriffs and their deputies and constables of their respective counties are empowered to collect the said taxes, either by suit or by making distraint and sale of the property of the person against whom such assessments for taxes were made for the years one thousand nine hundred and twenty-one, one thousand nine hundred and twenty-two, one thousand nine hundred and twenty-three, and one thousand nine hundred and twenty-four, and which taxes have not been returned delinquent for these years; and in case such person against whom such assessments were made for these years has removed or shall remove to another county, the said sheriff and his deputies are authorized to make distraint and sale in such county to which any such person has removed or shall remove. Such sheriff may send a statement of the taxes due from any such person who has removed into another county to the sheriff of the county to which he or she has removed, and the sheriff of that county is authorized and empowered to make levy and collection of the said taxes or assessments made in his own county.

CHAPTER 46

(House Bill No. 425—By Mr. Underwood)

AN ACT authorizing counties, for and on behalf of such counties or one or more magisterial districts therein, municipal corporations and school districts to issue bonds for the purpose of refunding indebtedness evidenced by bonds.

[Passed March 31, 1925; in effect from passage, Approved by the Governor.]

- | | |
|---|--|
| <p>Sec.</p> <ol style="list-style-type: none"> 1. Political divisions, refunding bonds. 2. Governing authorities authorize; administration. 3. Bonds, kinds, registration. 4. Bonds, city, counties and school districts; registered; interest payable to holder only; administration. 5. Bonds and coupons, who shall sign. | <p>Sec.</p> <ol style="list-style-type: none"> 6. Bonds, political divisions shall levy for; political division liable. 7. Intention to refund only, not to increase indebtedness. 8. Bonds, act authority for issuance of. 9. No referendum or notice required. 10. Constitutionality. 11. Conflicting laws repealed. |
|---|--|

Be it enacted by the Legislature of West Virginia:

Section 1. That any county, by and through its county court, either for and on behalf of the county or for and on behalf of any magisterial district or group of magisterial districts therein; any municipal corporation, by and through its council or other governing body in lieu thereof; any school district, by and through its board of education or other fiscal body in lieu thereof, may, in the manner and subject to the limitations and conditions herein contained, issue and sell its bonds for the purpose of refunding the bonds of such political division which have become or are becoming due and payable for the discharge of which there are or will be when the bonds mature no funds or insufficient funds available; and in like manner such refunding bonds may be issued for the purpose of refunding outstanding bonds not due when such outstanding bonds are to be presented for payment before maturity by the exercise of option provisions or by agreement with the holders thereof, and such refunding bonds can be issued bearing the same or a lesser rate of interest than the bonds to be refunded.

Sec. 2. That upon determining to issue such refunding bonds the governing authorities of such political division shall, by resolution authorize the issuance of such bonds in an amount not exceeding the principal amount of the bonds to be refunded, fix the date thereof, the rate of interest which such bonds shall bear, payable semi-annually, and require that the bonds be payable at the office of the state treasurer and at such other agency as he may appoint. Said resolution shall also provide that such

9 bonds mature serially in annual installments beginning not more
10 than three years after the date thereof; and the last of such
11 annual installments shall mature in not exceeding thirty-four
12 years from the date of such bonds; the amount payable in each
13 year may be so fixed that when the amount of interest is added
14 to the principal amount to be paid during the respective years,
15 the total amount payable in each year shall be as nearly equal
16 as practicable, or said bonds may be made payable in annual
17 installments as nearly as equal in principal amount as may be
18 practicable.

Sec. 3. That bonds issued hereunder may be either registered
2 or coupon bonds. Coupon bonds may be registered as to princi-
3 pal in the holder's name on the books of the financial officer of
4 the political division, the registration being noted upon the
5 bonds by such financial officer, after which no transfer shall be
6 valid unless made on such financial officer's books by the regis-
7 tered holder and similarly noted on the bonds. Bonds regis-
8 tered as to principal may be discharged from registration by
9 being transferred to bearer, after which they shall be trans-
10 ferable by delivery, but may be again registered as to principal
11 as before. The registration of the bonds as to principal shall
12 not restrain the negotiability of the coupons by delivery merely.

Sec. 4. That coupon bonds issued by any municipal corpora-
2 tion having a population of twenty thousand or more according
3 to the last federal census, or by any county containing such
4 municipal corporation, or by any school district or independent
5 school district whose boundaries are co-terminous with or in-
6 clude any such municipal corporation, may also be registered
7 as to interest, and the coupons surrendered and the interest
8 made payable only to the registered holder of the bond. For
9 that purpose the financial officer of the county, municipal cor-
10 poration or school district shall detach and cancel the coupons
11 and shall indorse a statement on the bond that the coupon sheet
12 issued therewith has been surrendered by the holder and the
13 coupons canceled by him, and that the semi-annual interest is
14 thereafter to be paid to the registered holder or order by draft,
15 check or warrant drawn payable at a place of payment specified
16 in the bond. Bonds registered under this section may, with the
17 consent of the county or municipal corporation or school dis-
18 trict and the holders of the bonds, be reconverted into coupon
19 bonds at the expense of the holder thereof, and again recon-
20 verted into the registered bonds from time to time, as the gov-

erning authority of the municipal corporation or county or school district and the holders of the bonds may determine. Such counties, municipal corporations and school districts are authorized to pass all resolutions and ordinances necessary to give effect to the provisions of this section.

Sec. 5. That all bonds issued hereunder by any county shall be signed by the president of the county court and countersigned by the clerk of such court; bonds issued by any municipality shall be signed by the mayor or other chief executive and countersigned by the clerk, recorder or secretary; bonds issued by a school district or independent school district shall be signed by the president of the board of education and countersigned by the secretary thereof. The seal of the political division shall be affixed to said bonds. Interest coupons shall be signed by the *fac simile* signatures of such officers. The delivery of any bonds or coupons so executed at any time thereafter shall be valid, although before the date of delivery the person signing such bonds or coupons shall have ceased to hold office.

Sec. 6. That it shall be the duty of the governing authority of any political division at or before the time of issuing bonds hereunder, to provide for the imposition and collection annually of a tax in excess of all other taxes, on all property subject to taxation, by the political division under the constitution and laws of the State of West Virginia, sufficient in amount to pay annually the interest on such debt and the principal thereof falling due in each year, such tax to be levied and collected by the same officers, at the same time, in the same manner as the general taxes of the political division. Should any political division neglect or fail for any reason to impose or collect such taxes for the payment of the principal or interest of any bonded indebtedness incurred hereunder, any person in interest or the state tax commissioner may enforce the imposition and collection thereof in any court having jurisdiction of the subject-matter, and any suit, action or proceeding brought for such purpose shall be a preferred cause and shall be heard and disposed of without delay.

Sec. 7. That the governing authority of the political division issuing bonds hereunder may sell the same or any part thereof and collect the proceeds, or such bonds may be delivered to the holder or holders of the bonds to be refunded in exchange therefor. It is the intention of this act to authorize political divisions to issue bonds for the purpose of refunding outstanding bonds

7 without thereby contracting any indebtedness, and it shall be
8 conditional upon the delivery of any refunding bonds that a
9 like principal amount of the bonds to be refunded be canceled
10 and paid simultaneously with the issuance and delivery of such
11 refunding bonds.

Sec. 8. That this act shall, without reference to any other
2 act of the legislature, be full authority for the issuance, sale
3 and exchange of bonds in this act authorized. No order, ordi-
4 nance, resolution or proceeding in respect to the issuance of any
5 bonds hereunder shall be necessary except such as are required
6 by this act. No publication of any notice, order, ordinance or
7 proceeding relating to the issuance of said bonds shall be
8 necessary.

Sec. 9. That the issuance and sale or exchange of bonds in
2 this act authorized may be had without an election or publication
3 of any notice. The prior right of the state and its several de-
4 partments to the purchase of bonds shall not be construed as
5 applicable to the bonds in this act authorized.

Sec. 10. That if any clause, sentence, paragraph or part of
2 this act shall for any reason be adjudged by any court of com-
3 petent jurisdiction to be invalid, said judgment shall not affect,
4 impair or invalidate the remainder of the act but shall be con-
5 fined in its application to the clause, sentence, paragraph or
6 part thereof directly involved in the controversy in which such
7 judgment has been rendered.

Sec. 11. That all laws or parts of laws in conflict herewith
2 are hereby repealed.

CHAPTER 47

(House Bill No. 657—By Mr. Underwood)

AN ACT authorizing and empowering the county court of Tyler
county, West Virginia, to lay special levies for grading, drain-
ing and hard surfacing roads in the magisterial districts of
McElroy, Centerville, Ellsworth and Meade of said county,
according to plans and specifications of the county court.

[Passed April 20, 1925; in effect from passage. Became a law without the
approval of the Governor.]

<p>Sec. 1. Levy for road purposes: county court authorized: addition to all other levies.</p>	<p>Sec. 2. Levies, how and when laid; how accounts kept.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. Subject to the limitations of sections seven and eight of article ten of the constitution, the county court of Tyler county, West Virginia, is hereby authorized and empowered to lay a special levy each year for a period not exceeding ten years on all taxable property in any one or more of the magisterial districts of McElroy, Centerville, Ellsworth and Meade of said county, not exceeding for any year eighty cents on each one hundred dollars assessed valuation of the property in the district in which such levy is laid; which said levy shall be in addition to all other levies for road purposes.

Sec. 2. The funds raised in each district by said levy may be spent for grading, draining and hard surfacing any county-district or state road within the district, and can be used for no other purpose. The levies authorized under this act shall be laid at the same time and in the same manner as other levies provided for by the general law of this state. Said roads shall be constructed according to such plans and specifications as said county court may decide upon. All moneys realized from said special levy in each district shall be kept in a separate fund, and a separate account kept of the receipts and disbursements of the same.

CHAPTER 48

(Senate Bill No. 8—By Mr. Henshaw)

AN ACT to amend and re-enact section eleven of chapter two hundred and sixteen of the acts of the legislature of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three entitled "An act relating to the school district of Martinsburg, West Virginia, as amended and re-enacted by chapter seventeen of the acts of the legislature of West Virginia, for one thousand eight hundred and seventy-five, and as amended and re-enacted by chapter one hundred and seventeen of the acts of the legislature of West Virginia for one thousand eight hundred and seventy-five, and as amended and re-enacted by the acts of the legislature of West Virginia for one thousand and nine hundred and seven and as amended and re-enacted by the acts of the legislature of West Virginia for one thousand nine hundred

and twenty-three; and also to amend and re-enact section twenty-two of chapter two hundred and sixteen of the acts of the legislature of West Virginia for one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three; and also to amend and re-enact section fifteen of chapter two hundred and sixteen of the acts of the legislature of West Virginia for one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three."

[Passed March 18, 1925; in effect from passage. Approved by the Governor.]

Sec.

11. Special tax for elementary schools; repairs and permanent improvements to buildings; collection and disbursement of funds; loans and bonds.

22. Purchase and condemnation of

Sec.

lands for buildings and playgrounds.

15. Establish high schools and junior high schools; make levy for the same; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That section eleven of chapter two hundred and sixteen of the acts of one thousand eight hundred and seventy-two and one thousand and eight hundred and seventy-three, as amended by the acts of one thousand nine hundred and seven and by the acts of one thousand nine hundred and twenty-three, and sections fifteen and twenty-two of the acts of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, relating to the school district of Martinsburg, be amended and re-enacted to read as follows:

Section 11. It shall be the duty of the board of education 2 annually in the month of July, to determine as nearly as 3 practicable, the amount of money necessary, in addition to all 4 other available funds, to continue the elementary schools of 5 the district for a period of not less than nine months, and 6 for all other purposes relating to such elementary schools 7 of the district, such as the repairing and improvement of 8 school premises, the purchase of sites and the building of 9 school houses, the payment of debts previously contracted, 10 which may fall due within the year, and said board shall 11 cause the amount to be assessed on all the taxable property 12 of the district, subject to state and county taxes; *provided*, 13 that not more than six and one-half mills on the dollars 14 valuation of said taxable property shall be assessed in any 15 one year for the purpose of continuing such elementary

16 schools for said period of not less than nine months, and
17 for ordinary repairs and incidental expenses, and not more
18 than four mills on the dollars valuation for the purchase of
19 sites, the building of houses and permanent improvements;
20 the amount collected under the assessment last named shall
21 be known as the elementary maintenance and building fund;
22 the assessment made under the provisions of this section
23 shall be levied by the board of education, and collected by
24 the same officer by whom the county levies are collected;
25 the amounts thus collected shall severally be certified by the
26 collecting officer to the clerk of the board of education and
27 shall be paid out only upon drafts signed by the president
28 and countersigned by the clerk and issued by order of the
29 board of education; but the board shall not during any one
30 year contract for or expend more than the aggregate amount
31 of its quota of the general school fund, and the amount
32 collected from the levies for that year together with any
33 balance remaining in the hands of the sheriff or collector at
34 the end of the preceding year, and such arrearages of taxes
35 as may be due to it; but the board may borrow money and
36 issue bonds therefor for the purpose of building, completing,
37 enlarging, repairing, remodeling or furnishing school houses
38 within said district; for elementary and high school purposes;
39 said bonds shall be payable within not exceeding thirty-four
40 years from their date and the rate of interest thereon shall
41 not exceed six per centum per annum, and they shall not be
42 sold for less than par; but in no other case shall any debts
43 be incurred by said board to be paid out of the school money
44 for any subsequent year; *provided*, that no debt shall be
45 contracted under this section which shall, including existing
46 indebtedness, in the aggregate exceed five per centum on
47 the value of the taxable property in said district to be ascer-
48 tained by the last assessment for county taxes previous to
49 the incurring of such indebtedness, nor without at the same
50 time providing for the collection of a direct annual tax
51 sufficient to pay annually the interest on said debt and the
52 principal thereof within not exceeding thirty-four years; and
53 the board may also, if it sees fit, provide for the payment
54 after three years, of the principal of one or more of such bonds
55 in each year, the bonds so to be paid to be selected by the
56 board, or a sinking fund may be created with a view to the
57 payment of the aggregate amount of such bonds when they

58 become payable; and, *provided, further*, that no debt shall be
59 contracted under this section unless all questions connected
60 therewith shall have first been submitted to a vote of the
61 qualified voters of said district, and shall have received three-
62 fifths of all the votes cast for and against the same; such
63 submission may be made at any general election or any
64 municipal election held within the said town of Martinsburg,
65 or at a special election to be held for the purpose; such elec-
66 tion shall be held and conducted in a legal manner under
67 this act and as prescribed by the board of education of said
68 school district of Martinsburg; and said board shall cause
69 the words "for bond issue" and "against bond issue" to
70 be written or printed upon the ballots used at such election
71 within the said town of Martinsburg, so that the voters there-
72 in may conveniently express their sentiments upon the said
73 question.

74 In case the said submission is made at any general or muni-
75 cipal election, the officers appointed by law to hold and con-
76 duct the same shall count the votes for and against said bond
77 issue and shall, within three days after said election, certify
78 the result of such vote to the board of education, which shall
79 within five days thereafter record the same among their
80 records and act accordingly.

81 In case the said submission shall be made at a special
82 election the said board shall appoint three commissioners, two
83 poll clerks, and two challengers at as many voting places as
84 they deem it necessary to open in said town of Martinsburg
85 to hold and conduct such election, and said commissioners
86 shall count the votes and within three days after the said
87 election certify the result thereof to the board of education,
88 which shall then proceed in the same manner as herein pro-
89 vided when such submission is made at a general or municipal
90 election; the commissioners appointed to hold such special
91 election shall return the ballots voted thereat in a sealed
92 package to the board of education at the same time they
93 certify the result of such election.

94 At least four weeks before such election the president of
95 the board shall issue his proclamation to the voters of the
96 district notifying them of the time and places for holding the
97 same, and the object and purposes thereof, embodying therein
98 a copy of the order of the board showing all questions involved
99 in relation to the proposed bond issue, and the plan of the

100 board providing for the payment of the principal and inter-
101 est thereof, and such proclamation shall be inserted once a
102 week for four successive weeks before the date designated for
103 the holding of such election in a newspaper of general circu-
104 lation within said town of Martinsburg, and which shall also
105 be posted for a like period at the front door of the court house
106 of Berkeley county, and at some conspicuous place in each
107 ward within said town.

Sec. 22. The board shall provide by purchase, condemna-
2 tion or otherwise, such lands as may be necessary for school
3 buildings, playgrounds, athletic fields, experiments in agricul-
4 ture, and other educational purposes, and shall have authority
5 to make the necessary expenditures for the improvement of
6 such lands.

7 If the owner or owners refuse to sell any land selected by
8 the board of education as a location for a school house or
9 other necessary buildings, or for enlarging a school house lot, or
10 for any other educational purpose, or if such owner demand
11 an unreasonable price therefor, or is *non compos mentis*, a
12 *femme coverte*, a minor or a non-resident, or for any other
13 reason clear title cannot be given to such lands, the board of
14 education may petition the circuit court to have such land
15 condemned, and such proceedings shall thereupon be had in
16 the name of such board for the condemnation thereof as are
17 provided for in chapter forty-two of the code of West Virginia.

Sec. 15. The board of education shall have power to estab-
2 lish high schools and junior high schools in which shall be
3 taught such branches of learning as they may direct. They
4 shall have power to lay levies for the support of such schools
5 under that clause of section five of the chapter of the general
6 school law, acts of the legislature for one thousand nine hun-
7 dred and nineteen, relating to school levies and school funds.

All acts or parts of acts in conflict with these sections, viz:
section eleven, section twenty-two and section fifteen are hereby
repealed.

CHAPTER 49

(Senate Bill No. 174—By Mr. Willis)

AN ACT to amend chapter forty-five of Barnes' code of one thou-
sand nine hundred and twenty-three by adding thereto section

one hundred and ninety-five relating to the duties of the board of the school fund.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

195. Creation of "school fund" and the "board of the school fund"; mem-

bers; powers and duties; investment of fund; regulations governing procedure of board; quorum.

Be it enacted by the Legislature of West Virginia:

That chapter forty-five of Barnes' code of one thousand nine hundred and twenty-three relating to duties of the board of the school fund be amended by adding thereto the following:

Section 195. All such sums as have accrued to this state from the several sources enumerated in the fourth section of the twelfth article of the constitution, not in excess of one million dollars, shall be set apart as a separate fund to be called "the school fund" and the governor, state superintendent of free schools, auditor and treasurer shall be a corporation under the name of "the board of the school fund," and shall have the management, control and investment of said fund, as provided by the fourth section of the twelfth article of the constitution. Said fund shall be invested in the interest bearing securities of the United States, or of this state, or of any county, city, town or village, or school district of this state, or if such interest bearing securities cannot be obtained, then said fund shall be invested in such other solvent interest bearing securities as shall be approved by such board. The governor shall be president of the board, and in his absence the board shall choose one of their number to preside temporarily in his place. The auditor shall be secretary of the board and custodian of the securities in which such fund is invested. A record shall be kept of all the proceedings and be signed by the president and secretary, and a copy thereof, certified by the secretary of the board, shall be evidence in all cases in which the original would be. A majority of the board shall constitute a quorum for the transaction of business.

CHAPTER 50

(House Bill No. 128—By Mr. Roberts)

AN ACT to amend and re-enact chapter two, section eighty of the acts of the legislature of one thousand nine hundred and nineteen, regular session.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.
80. Normal training in high schools;
state aid.

Be it enacted by the Legislature of West Virginia:

That section eighty of chapter two of the acts of the legislature of one thousand nine hundred and nineteen, regular session, be amended and re-enacted so as to read as follows:

Normal training in high schools—state aid

Section 80. Whenever in the judgment of any county high school board or of any county, district or independent district board of education in whose district a high school is maintained, it is advisable to provide for the better training of the teachers in the elementary schools of its county or district, such county high school board, district board of education or independent district board of education shall have the authority to establish and maintain a normal training department in connection with any high school under its control, to provide necessary rooms, furniture, equipment and supplies and to employ teachers therefor.

It shall be the duty of the state board of education to prescribe a course of study for such normal training departments, to determine the number and qualifications of teachers to be employed therein, and to establish such other regulations and requirements for their conduct as they may deem best; and when a normal training department has been established in any high school in accordance with the regulations and requirements of the state board of education and has been approved by said board, such high school shall be designated and known as a normal training high school. When any normal school or normal training high school maintained in part or wholly by the state is established it shall be the duty of the board of education of the school district in which such school is located to permit the use of the schools of its district for observation and supervised teaching practice according to the requirements of the state board of education and to provide proper conditions and facilities for such observation and supervised teaching. Normal training high schools, so approved shall be entitled to receive, in addition to the state aid now provided by law for classified high schools, the

32 sum of one thousand dollars annually, the same to be paid
 33 out of appropriation for classified high schools at the time and
 34 in the manner prescribed by law for the payment of state
 35 aid to classified high schools, and to be used for the main-
 36 tenance of normal training departments of such high schools
 37 and for no other purpose; *provided, however*, that not more
 38 than twenty-five high schools in the state shall receive aid as
 39 normal training schools at one time; and *provided, further*,
 40 that such state aid shall not be given in support of any such
 41 normal training department of any high school located in
 42 any county in which a state normal school or other state school
 43 maintaining such normal training course is located.

CHAPTER 51

(House Bill No. 154—By Mr. Deuley)

AN ACT to amend and re-enact sections fifty-nine and eighty-one of chapter forty-five of Barnes' code of one thousand nine hundred and twenty-three, relating to the transfer of pupils and the payment of tuition.

[Passed April 24, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 59. Transfer of pupils; provisions for; tuition.		Sec. 81. High school tuition; how paid.
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Be it enacted by the Legislature of West Virginia:

That sections fifty-nine and eighty-one of chapter forty-five of the code of West Virginia be amended and re-enacted so as to read as follows:

Transfer of Pupils—Tuition

Section 59. The board of education of every district and
 2 independent district shall determine what schools in its district
 3 the pupils shall attend. But upon the written request of any
 4 parent, guardian or other person legally responsible for any
 5 pupil, or pupils, the board of education may transfer such
 6 pupils to another school in the district, or to a school in an
 7 adjoining district or independent district, or to another state if
 8 it can be shown that such pupils would be better accommodated
 9 at such other school. Any person aggrieved by such action of
 10 a district board of education regarding such application for

11 transfer of pupils may appeal to the county superintendent of
12 schools, whose decision shall be final.

13 Transfers of pupils from one district or independent dis-
14 trict to another, whether in the same or in adjoining counties
15 shall be made by the board of education of the district in which
16 the pupil, or pupils, desiring to be transferred reside, and the
17 same shall be subject to the approval of the board of education
18 of the district or independent district in charge of the schools
19 to which such pupil, or pupils, wish to be transferred. In all
20 cases of transfer of pupils, either to elementary schools or to
21 high schools, the board of education of the district making such
22 transfer shall pay to the board of education to which such
23 transfers are made, reasonable tuition fees, which for element-
24 ary schools shall not exceed two and one-half dollars a month
25 and which for high schools shall not be less than two and one-
26 half dollars nor more than ten dollars a month, but in no in-
26-a stance shall the fee be more than the actual cost of such in-
26-b struction, the same to be paid out of the teachers'
27 fund of the one district to the teachers' fund of the
28 other; and no board of education of any district, or
29 independent district, shall be required to pay any further
30 or additional sum or fees for such tuition. And no parent,
31 guardian or person acting as such parent or guardian, shall be
32 required to pay any sum whatever for such transfer or for
33 tuition of such pupil after such transfer. In all cases of trans-
34 fer of pupils, either to elementary schools or to high schools, the
35 board of education in the district or the independent district
36 maintaining such schools, which are to be attended by the pupils
37 legally transferred from another district or independent district
38 in this or another state as herein provided, shall properly certify
39 to the board of education of the district or independent district
40 in which said pupils reside, the names of all such pupils
41 and the length of time they attended such schools and the
42 tuition fees therefor, which tuition fees shall within thirty days
43 after being so certified be paid to the district maintaining such
44 school by the district to which the same is certified. All tuition
45 fees shall be paid out of the teachers' fund of the one district
46 to the teachers' fund of the other district.

47 Transfer of pupils from this state to another state shall be
48 upon such terms as shall be mutually agreed upon by the board
49 of education of a district from which the transfer is made and

50 the school authorities having control of the school to which the
51 transfer is made, and shall be based upon the per capita cost for
52 the preceding year of class room instruction, janitor's services,
53 heat, light and water.

Payment of High School Tuition

Sec. 81. It shall be the duty of the board of education in
2 any district which does not maintain a high school, or assist in
3 the maintenance of the county high school, to pay the tuition
4 fees of all pupils in its district who have completed the course
5 of study in the elementary schools and who attend public high
6 schools in other districts or counties, or other schools of high
7 school grade within the state; *provided*, that boards of educa-
8 tion shall not pay less than two dollars and fifty cents, nor
9 more than ten dollars per month for such tuition for each pupil
10 attending such high school, or other school of high school grade;
11 but in no instance shall such fees be more than the actual cost
12 of such instruction; *provided further*, that boards of education
12-a shall not be required to pay such tuition fees for any pupil for
12-b more than four years.

13 A board of education maintaining a high school having
14 courses of study of less than four years shall in like manner pay
15 for the tuition of pupils who have completed a course in such
16 school and who desire to complete a four-year course in some
17 other high school, or other school of high school grade, offering
18 such course.

19 Fees for the tuition of high school pupils shall be paid out
20 of the teachers' fund of the district upon presentation of a
21 certificate giving the names of the pupils for whom tuition fees
22 are due and the number of months each was in attendance
23 said certificate to be signed by the president of the board of
24 education or other board controlling the high school or other
25 school in which tuition pupils were in attendance and by the
26 principal of the school. No board of education of any district
27 or independent district, shall be required to pay any further
28 or additional sum or fees for such tuition. And no parent,
29 guardian or person acting as such parent or guardian shall be
30 required to pay any sum whatever for such transfer or for
31 tuition of such pupil after such transfer.

All acts or parts of acts not consistent with this act are hereby
repealed.

CHAPTER 52

(House Bill No. 225—By Mr. Street)

AN ACT to amend and re-enact section forty-three of chapter forty-five of Barnes' code of one thousand nine hundred and twenty-three, relating to vacancies in the office of members of district boards of education.

[Passed April 23, 1925; in effect from passage. Approved by the Governor.]

Sec.
43. Office vacated, how; vacancies, how filled.

Be it enacted by the Legislature of West Virginia:

That section forty-three of chapter forty-five of Barnes' code be amended and re-enacted so as to read as follows:

Vacancy, How Filled

Section 43. Any member of the board of education who shall be employed to teach in his district, or any member who shall move to another district, county or state, shall in either case thereby immediately vacate his office.

Vacancies in the office of school commissioner or president shall be filled by the county superintendent of schools until the next general election.

CHAPTER 53

(House Bill No. 241—By Mr. McPherson, by request)

AN ACT authorizing the teaching of school on the first day of the year, commonly called New Year's day.

[Passed April 23, 1925. In effect 90 days from passage. Approved by the Governor.]

Sec.
1. New Year's day a school day; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The first day of the year, commonly called New Year's day, shall be a legal school day; *provided, however*, that any board of education or trustees of any school district shall have the right to provide for the observance of the same as a holiday.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 54

(House Committee Substitute for Senate Bill No. 87—By Mr. Baker)

AN ACT to amend and re-enact section thirty-nine of chapter twenty-nine, Barnes' code, one thousand nine hundred and eighteen, relating to assessments of lands, estates in land and undivided interests therein.

[Passed April 8, 1925; in effect from passage. Approved by the Governor.]

Sec. 39. Assessment of property of different owners in several parcels separately; individual interests; acts		relating to taxation, delinquency, sale, advertisement, forfeiture and redemption to apply; inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

That section thirty-nine of chapter twenty-nine of Barnes' code, of one thousand nine hundred and eighteen (being section thirty-nine of chapter thirty-five of the acts of the West Virginia legislature of one thousand nine hundred and five), be amended and re-enacted to read as follows:

Section 39. When a tract of land becomes the property of 2 different owners in several parcels, the assessor shall assess 3 the several parcels separately to the individual owners thereof, 4 giving to each of said parcels its true and actual value accord- 5 ing to the rule prescribed in section twelve of this chapter. 6 When any person becomes the owner of the surface, and another 7 or others become the owner or owners of the coal, oil, gas, ore, 8 limestone, fireclay, or other minerals or mineral substances in 9 and under the same, or of the timber thereon, the assessor shall 10 assess such respective estates to the respective owners thereof 11 at their true and actual value, according to the rule prescribed 12 in section twelve of this chapter. And whenever any person 13 or persons are, or become, the owner or owners of any undivided 14 interest or interests in lands, or in the surface, coal, oil, gas, 15 ore, limestone, fireclay, timber or other estate therein, the owner 16 or owners of such undivided interest or interests may on request 17 to the assessor, have such undivided interest or interests 18 assessed to him or them independently of the other undivided 19 interest or interests therein; and all such assessments of undi- 20 vided interests heretofore entered on the assessment books are 21 hereby validated; *provided*, that if by reason of the discovery 22 of any such minerals or the development thereof or otherwise 23 since the last assessment, any such land, estate, or undivided 24 interest increases in value to the amount of one hundred dollars

25 or more, the assessor shall increase the assessment of such land,
 26 estate or undivided interest to the actual value thereof, accord-
 27 ing to the rule contained in section twelve, in the name of the
 28 owners thereof; *provided, further*, that if the value of such
 29 estate or undivided interest shall decrease to the amount of one
 30 hundred dollars or more, by reason of the exhaustion of any
 31 such mineral or by the failure to find or develop the same
 32 thereunder, said assessor shall make such reduction in the valu-
 33 ation thereof as to place it at its actual value according to the
 34 rule prescribed in section twelve of this chapter. The words
 35 "owner or owners" as used in this section shall include any
 36 claimant or claimants who now appear as such on the assess-
 37 ment books or are entitled to have the land or interest in land
 38 claimed by him or them to be assessed for taxation. All acts
 39 and parts of acts relating to the taxation, delinquency, sale,
 40 advertisement, forfeiture and redemption of lands or real estate
 41 shall also apply with the same force to said estates in land and
 42 to undivided interests therein. Nothing in this act shall affect
 43 the rights of any party to any action or suit heretofore finally
 44 adjudicated, or that may be now pending or that may be
 45 instituted on or before the first day of July one thousand nine
 46 hundred and twenty-five.

All acts or parts of acts inconsistent herewith are hereby re-
 pealed.

CHAPTER 55

(Senate Bill No. 97—By Mr. Reynolds)

AN ACT to amend and re-enact sections twelve, nineteen and
 twenty of chapter sixty-three of the acts of the legislature of
 one thousand nine hundred and nineteen and sections twelve,
 nineteen and twenty of chapter one hundred and thirty-seven
 of Barnes' code of one thousand nine hundred and twenty-
 three, and to add thereto section nineteen-a, relating to fees of
 officers.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the
 approval of the Governor.]

Sec.
 12. Fees of justice of the peace in civil
 cases.
 19. Fees of justices in criminal pro-
 ceedings.
 19-a. Issue receipt for fees paid, show-
 ing proper itemization; forms fur-

nished by tax commissioner; make
 quarterly reports; pay fines col-
 lected to sheriff; furnish list of
 persons fined; penalty for failure
 to comply with the provisions of
 this act.

Sec.
20. In misdemeanor, search warrant, recognizance, or bond to keep the peace proceedings, if fees are not paid by the parties, the same may

be collected as provided by law; felony cases and proceedings; executions for fines and cost; comply with provisions of this act; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections twelve, nineteen and twenty of chapter sixty-three of the acts of the legislature of one thousand nine hundred and nineteen, and sections twelve, nineteen and twenty of chapter one hundred and thirty-seven of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted and that section nineteen-a be added thereto, to read as follows:

Justices in Civil Cases

Section 12. Every justice of the peace shall be entitled to
2 charge and receive the following fees in civil cases, and no
3 other fees shall be charged by any justice in civil cases and
4 proceedings before him:

5 For entering suit and issuing summons or summonses,	
6 not to exceed two; issuing subpoena or subpoenas for	
7 not to exceed two witnesses, and making all necessary	
8 copies of said summonses and subpoenas, swearing not	
9 to exceed four persons, docketing the case, indexing and	
10 filing papers, receiving confession of judgment or ren-	
11 dering judgment by default and entering same together	
12 with satisfaction on docket, including the taxing of jus-	
13 tices' and constables' costs.....	\$3.00
14 For each summons or subpoena in excess of two.....	.20
15 For swearing each witness in excess of two, arbitrators	
16 or party .....	.10
17 For appointing special constables at request of either	
18 party .....	.25
19 For trying case (defense interposed), and entering judg-	
20 ment and satisfaction	1.00
21 For issuing order of attachment and necessary copies	
22 thereof, and taking bond.....	.75
23 For each additional attachment to recover on original	
24 judgment, and taking bond.....	.75
25 For issuing second summons together with copies thereof	
26 for non-residents as provided by section two hundred	
27 and two of chapter fifty of the code.....	.60
28 For issuing order of arrest or order of commitment.....	.50
29 For trial and judgment of any case of contempt.....	1.00

30 For taking and certifying any affidavit in writing, except	
31 to commence suit .....	.40
32 For every continuance .....	.20
33 For appointing a guardian for the suit of an infant plain-	
34 tiff or defendant .....	.25
35 For settling and allowing interrogatories.....	.40
36 For entering agreement for arbitration.....	.40
37 For summons of arbitrators.....	.30
38 For every bond filed in case and docketing of same, except	
39 bond in attachment case.....	.25
40 For venire for jury, including the drawing for same....	.50
41 For abstract of judgment for docketing in the office of	
42 the clerk of the county court.....	.25
43 For issuing execution and entering return thereof on	
44 docket .....	.50
45 For entering stay of execution.....	.25
46 For trying right of property levied on or attached.....	1.00
47 For transcript from docket.....	.50
48 For transmitting or delivering papers to the clerk of the	
49 circuit court in case of an appeal.....	.50
50 For taking and certifying acknowledgment of deed or	
51 other instrument of writing.....	.50
52 For taking depositions of witnesses if done in an hour or	
53 less .....	.75
54 If not done in an hour for additional time at the rate, per	
55 hour of .....	.75
56 For taking an inquest on a dead body, to be audited and	
57 paid from the treasury of the county.....	5.00
58 <i>Provided</i> , however, that in an action brought before a jus-	
59 tice to recover a sum of money and an attachment is issued	
60 against the wages of the defendant and the claim is not con-	
61 tested, the maximum total fee, covering all costs, to be charged	
62 by the justice shall not exceed five dollars; and <i>provided</i> ,	
63 <i>further</i> , that if the defendant appear on or before the day set	
64 for trial of the case and confesses judgment then the maximum	
65 total fee to be charged by the justice shall not exceed three	
66 dollars.	

Sec. 19. Every justice shall be entitled to the following fees
 2 in all criminal cases and proceedings before him, and no other
 2-a fees shall be taxed or charged by any justice in such cases and
 2-b proceedings:

3	For every affidavit for warrant	\$.50
4	For every warrant of arrest or commitment .....	.50
5	If there be more than one defendant charged jointly with	
6	any offense for whom arrest or commitment is sought,	
7	the warrant shall be a joint warrant and the fee there-	
8	for be .....	.50
9	For every trial on warrant against a single defendant	1.00
10	For every trial on warrant against two or more defendants	2.00
11	For every separate trial against one defendant under a	
12	joint warrant	1.00
13	For examination when accused is apprehended and brought	
14	before him	1.00
15	For examination when two or more are jointly charged and	
16	brought before him	2.00
17	For every recognizance or bond to keep the peace or be of	
18	good behavior .....	.50
19	For docketing and indexing case on return of warrant exe-	
20	cuted .....	.30
21	For every subpoena for one or more witnesses.....	.15
22	For every copy thereof.....	.10
23	For every warrant to summon a jury.....	.25
24	For swearing a jury .....	.25
25	For swearing and certifying attendance each witness....	.10
26	For entering judgment on docket, taxing and certifying	
27	costs .....	.50
28	For issuing execution and entering return thereon.....	.50
29	For granting an appeal, including taking the bond or re-	
30	cognizance, making and certifying a transcript of his	
31	docket and transmitting the same and the papers in the	
32	case to the clerk of the circuit court (ten cents per hun-	
33	dred words), or in lieu thereof a fee of.....	1.00
34	For recognizance of bail .....	.50
35	For recognizance of witnesses, each .....	.10
36	For search warrant .....	.50

Sec. 19-a. When any money is paid to a justice of the peace
 2 on account of a fine, or fine and costs, imposed by him, he shall
 3 give to the person paying same a receipt therefor, stating briefly
 4 but intelligently for what purpose the money has been paid,
 5 showing separately the amount of the fine and the amount of
 6 the costs, the name of the defendant or defendants, and the
 7 docket page upon which the case appears. These receipts are

8 to be prepared and furnished to the justices by the state tax
9 commissioner and are to be numbered and issued in triplicate,
10 one copy to be delivered to the person paying over the money,
11 one copy to be forwarded to the clerk of the county court by the
12 justice, and one copy to be retained and to remain in the
13 receipt book for the inspection of the state tax commissioner.

14 Every justice shall quarterly, on the first day of January,
15 April, July and October, certify to the clerk of the county court
16 and the state tax commissioner a list of all fines imposed by him
17 and a list of all fines that have been paid to him during the
18 preceding quarter giving the number of the receipt issued for
19 each payment; and such as remain uncollected by him; and he
20 shall also state in such list for which of such fines (if any) exe-
21 cutions have not been returned, or returned unsatisfied, and
22 for which (if any) executions have been returned satisfied and
23 the money not paid to him, with the name of the person or
24 officer so failing to return or pay, and such as have been paid
25 by him to the sheriff. In making payment of fines to the
26 sheriff the justice shall furnish a list of the persons fined, and
27 the amount collected from each person as a fine and as costs.
28 Failure to comply with the provisions of this act shall subject
29 the justice to a fine of not less than fifty nor more than three
30 hundred dollars.

Sec. 20. In all misdemeanor cases and all proceedings
2 under search warrant and proceedings for recognizance or bond
3 to keep the peace, when the fees prescribed in the preceding
4 section are not paid by the parties, such fees so charged by the
5 justice are to be charged and recovered as provided by sections
6 two hundred and twenty-seven and two hundred and twenty-
7 nine of chapter fifty, of the code of West Virginia.

8 In all felony cases and proceedings in relation to felonies
9 such fees so charged by any justice as prescribed in the pre-
10 ceding section shall be audited and paid by the county court as
11 other claims against the county; *provided, however*, execution
12 shall be issued by such justice for all fines and costs imposed by
13 him in criminal proceedings which are not paid by the parties
14 and delivered to a constable of said county, and the said con-
15 stable shall collect the same by levy or otherwise if the same
16 can be so collected, and shall return such execution to the justice
17 issuing the same, showing how he has executed the same and the
18 justice shall note the same on his docket. No payment shall be

19 made as provided herein until after the foregoing provisions
20 have been complied with, and until after the claim has been
21 submitted to the prosecuting attorney.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 56

(Senate Bill No. 98—By Mr. Reynolds)

AN ACT to amend and re-enact section seven, chapter four, Barnes' code of West Virginia of one thousand nine hundred and eighteen, relating to the filling of vacancies in the legislature.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

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| <p>Sec.
1. Manner of filling vacancy in house of delegates caused by death of member.</p> <p>2. Manner of filling vacancy in senate caused by death of member.</p> | <p>Sec.
3. Vacancy other than by death; writ of election to sheriffs; sheriffs to notify commissioners of election; notice to be posted and published.</p> |
|--|--|

Be it enacted by the Legislature of West Virginia:

That section seven, chapter four of Barnes' code of West Virginia of one thousand nine hundred and eighteen, relating to filling vacancies in the legislature be, and the same is hereby amended and re-enacted so as to read as follows:

Section 1. Whenever a vacancy in the legislature shall occur by the death of a member of the house of delegates, it shall be the duty of the clerk of the circuit court of the county in which said member of the house of delegates shall have resided, to notify the chairman and secretary of the county executive committee of the political party of which said member of the legislature belonged, of such vacancy, and it shall be the duty of the chairman and secretary to call a meeting of such county executive committee within five days after receiving such notice of the vacancy, and it shall be the duty of the meeting of the county executive committee to name some person duly qualified under the law to fill the vacancy, and the person so named by the county executive committee shall be a member of the same political party of which the former member of the house of delegates was a member, and thereupon it shall be the duty of the chairman and secretary of the county executive committee, immediately to certify to the governor of the state the

18 action of the meeting naming a person for the vacancy, and
19 thereupon it shall be the duty of the governor of the state to
20 appoint such person as a member of the legislature to fill said
21 vacancy, and forthwith the governor shall notify the clerk of
22 the house of delegates of such appointment, and the person so
23 appointed shall discharge the duties of the office of the member
24 of the house of delegates for the unexpired term of the former
25 member.

Sec. 2. Whenever a vacancy in the legislature shall
2 occur by the death of a member of the senate, the
3 clerk of the circuit court from which county said senator re-
4 sided at the time of his election shall immediately notify the
5 chairman and secretary of the senatorial executive committee of
6 said senatorial district of the political party of which said mem-
7 ber of the legislature belonged of such vacancy, and it shall be
8 the duty of the chairman and secretary of the senatorial district
9 to call a meeting of the senatorial executive committee of said
10 district to meet within ten days after receiving such notice of
11 the vacancy at the court house of the county wherein said
12 former senator resided at the time of his election, for the pur-
13 pose of naming a person to fill the vacancy, and it shall be the
14 duty of the senatorial executive committee to name a person
15 duly qualified under the law to fill the vacancy, and the person
16 so named by the senatorial executive committee shall be a mem-
17 ber of the same political party to which the former senator be-
18 longed and from the county in which he resided at the time of
19 his election, and it shall be the duty of the chairman and secre-
20 tary of the senatorial executive committee to immediately certify
21 to the governor of the state of the act of the meeting naming a
22 person for the vacancy, and the governor of the state then shall
23 appoint such person to fill such vacancy until a senator is elect-
24 ed at the next general election and has qualified, but if the
25 vacancy shall occur after the next general election following the
26 election of the former member, the governor shall fill such va-
27 cancy by appointment for the unexpired term, and it shall be
28 the duty of the governor forthwith to notify the clerk of the
29 senate of such appointment, and such person so appointed shall
30 discharge the duties of the office of senator for the period of his
31 appointment.

32 If any officer, except the governor, a member of the senatorial
 33 executive committee, the chairman or secretary of the senatorial
 34 executive committee, shall willfully fail, refuse and neglect to
 35 perform any duty required of him by this section, then he shall
 36 be guilty of a misdemeanor and punished by fine or imprison-
 37 ment at the discretion of the court.

Sec. 3. Whenever a vacancy shall occur by resignation or
 2 otherwise than by death, in either branch of the legislature,
 3 if during the recess of the legislature, a writ of election to fill
 4 the same shall be issued by the governor, and by the president
 5 of the senate or speaker of the house of delegates as the case
 6 may be, when such vacancy happens during the session, or
 7 when a writ of election has not theretofore issued. The said
 8 writ shall be directed to the sheriff of the proper county, or to
 9 the sheriffs of the several counties in the delegate or senatorial
 10 district as the case may be, and shall prescribe the day of the
 11 election; and every sheriff on receiving the same, shall im-
 12 mediately give notice thereof to the commissioners of elections,
 13 also cause notice of the same to be conspicuously posted at
 14 every place of voting in such county, and to be published in a
 15 newspaper if there be any published therein.

CHAPTER 57

(Senate Bill No. 117—By Mr. Hugus)

AN ACT to provide for the submission to the voters of the state
 of an amendment to section one, of article ten, of the consti-
 tution of the state.

[Passed April 21, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 1. Uniform taxation in proportion to value; appointment of funds by legislature; powers of legislature. 2. Name: "property classification amendment." 3. Election; ballots; conduct of election.	Sec. 4. Canvass; certificates by canvassers, certification to secretary of state. 5. Governor to ascertain result; when in force. 6. Publishing of amendment.
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Be it enacted by the Legislature of West Virginia:

That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, of article fourteen, of said

constitution, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and twenty-six, which proposed amendment is as follows:

Section 1. Subject to the exception in this section contained, 2 taxation shall be equal and uniform throughout the state, and all 3 property, both real and personal, shall be taxed in proportion to 4 its value, to be ascertained as directed by law. No one species 5 of property from which a tax may be collected shall be taxed 6 higher than any other species of property of equal value; except, 7 that money, notes, accounts receivable and bonds shall be taxed 8 at a rate not to exceed fifty cents on each one hundred dollars 9 of the true and actual value thereof, and the revenue derived 10 from this source shall be apportioned by the legislature among 11 the levying units of the state in proportion to the levy laid in 12 said units, upon real and other personal property, but property 13 used for educational, literary, scientific, religious or charitable 14 purposes and all cemeteries and public property, may, by law, 15 be exempted from taxation. The legislature shall have power 16 to tax, by uniform and equal laws, all privileges and franchises 17 of persons and corporations.

Sec. 2. For convenience in referring to the said proposed 2 amendment and in the preparation of the form of the ballot 3 hereinafter provided for, said proposed amendment is hereby 4 designed as follows: To be known as "property classification 5 amendment."

Sec. 3. For the purpose of enabling the voters of the state 2 to vote on the question of said proposed amendment to the 3 constitution, at the said general election to be held in the year 4 one thousand nine hundred and twenty-six, the board of ballot 5 commissioners of each county are hereby required to prepare 6 separate ballots from that of the official ballot to be voted at 7 said election, and print thereon the following:

8 *Ballot on Constitutional Property*
9 *Classification Amendment*

10 Amending section one of article ten.

11 For ratification of property classification amendment.

12 Against ratification of property classification amendment.

13 The said election on the proposed amendment at each place
14 of voting, shall be superintended, conducted and returned,

15 and the result thereof ascertained, by the same officers and
 16 in the same manner as the election of officers to be voted for
 17 at said election; and all of the provisions of the law relating to
 18 general elections, including all duties to be performed by any
 19 officer or board as far as applicable and not inconsistent with
 20 anything herein contained, shall apply to the election held
 21 under the provisions of this act, except when it is herein
 22 otherwise provided. The ballots cast on the question of said
 23 proposed amendment shall be counted as other ballots cast at
 24 said election.

Sec. 4. As soon as the result is ascertained and commis-
 2 sioners, or a majority of them, and the canvassers (if there
 3 be any) or a majority of them, at each place of voting, shall
 4 make out and sign two certificates thereof in the following
 5 form, or to the following effect:

6 We, the undersigned, who acted as commissioners (or cau-
 7 vassers, as the case may be) of the election held at
 8, in the district of.....in the
 9 county of....., on the.....day of.....,
 10 one thousand nine hundred and twenty....., upon the question
 11 of the ratification or rejection of the proposed constitutional
 12 amendment to section one of article ten, do hereby certify
 13 that the result of said election is as follows:

14 Amending section one of article ten:

15 For ratification of property classification amendment
 16votes.

17 Against ratification of property classification amendment
 18votes.

19 Given under our hands this.....day of....., one
 20 thousand nine hundred and twenty.....

21 The said two certificates shall correspond with each other in
 22 all respects, and contain the full and true returns of said
 23 election at each place of voting on said question. The said
 24 commissioners, or any of them, (or said canvassers or one of
 25 them, as the case may be), shall within four days, excluding
 26 Sundays, after that on which said election was held, deliver
 27 one of said certificates to the clerk of the county court of his
 28 county, together with the ballots. and the other to the clerk
 29 of the circuit court of the county.

30 The said certificates, together with the ballot cast on the
 31 question of said proposed amendment, shall be laid before the

32 commissioners of the county court at the court house at the
33 same time the ballots, poll books and the certificates of the
34 election for the members of the legislature are laid before them;
35 and as soon as the result of said election in the county upon the
36 question of such ratification or rejection is ascertained, two
37 certificates of such result shall be made out and signed by said
38 commissioners, as a board of canvassers, in the form or to the
39 following effect:

40 We, the board of canvassers of the county of ,
41 having carefully and impartially examined the returns of the
42 election held in said county, in each district thereof, on the
43 day of November, one thousand nine hundred and
44 twenty , do certify that the results of the election in said
45 county, on the question of the ratification or rejection of the
46 proposed amendment to section one of article ten is as follows:
47 For ratification of property classification amendment
48 votes.

49 Against ratification of property classification amendment
50 votes.

51 Given under our hands this day of , one
52 thousand nine hundred and twenty

53 One of the certificates shall be filed in the office of the clerk
54 of the county court, and the other forwarded by mail to the
55 secretary of state who shall file and preserve the same until
56 the day on which the result of said election in the State is to be
57 ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be
3 laid before the governor, whose duty it shall be to ascertain
4 therefrom the result of said election in the state, and declare
5 the same by proclamation published in one or more newspapers
6 printed at the seat of government. If a majority of the votes
7 cast at said election upon said question be for the ratification
8 of said amendment, the proposed amendment so ratified shall
9 be of force and effect from and after the time of such ratifica-
10 tion as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-
2 ment, with the proper designation for the same as hereinbefore
3 adopted, to be published one time at least three months before
4 such election, in some newspaper in every county in which a

5 newspaper is printed, at a price to be agreed upon in advance
6 in writing, and the cost of such advertising shall in the first
6 instance, if found necessary by him, be paid out of the gov-
7 ernor's contingent fund and be afterwards repaid to such fund
8 by appropriation of the legislature.

CHAPTER 58

(House Bill No. 42—By Mr. Hall, of Wetzel)

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state, as follows:
Amending section fifty-one of article six.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Proposed amendment; budget bill; governor shall submit; contents; may amend or supplement; legislature may amend, how; governor may veto any item; governor, et al, may be heard with respect to budget; supplementary appropriation bills, provision for; what to contain; war-time appropriations; extended session for passage, when; powers relative to state officials, boards, etc.; may

Sec.

provide for public hearings; legislature may enact laws to carry out provisions; invalid item shall not invalidate bill.
2. Designation, "budget amendment."
3. Ballot, form of; election, how conducted.
4. Ascertaining and certifying result; what certificates shall contain; where filed.
5. Governor's proclamation.
6. Publication in each county.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection
2 of an amendment to the constitution of West Virginia, pro-
3 posed in accordance with the provision of section two of article
4 fourteen of said constitution, shall be submitted to the voters
5 of the state at the next general election to be held in the year
6 one thousand nine hundred and twenty-six which proposed
7 amendment is as follows:

8

Proposed Amendment

9 That section fifty-one of article six of said constitution as
10 it now is be stricken out and the following inserted in lieu
11 thereof:

12 Section 51. The legislature shall not appropriate any
13 money out of the treasury except in accordance with the fol-
14 lowing provisions:

15 (a) Every appropriation bill shall be either a budget bill or
16 a supplementary appropriation bill, as hereafter mentioned.

17 (b) *First*: Within ten days after the convening of the legis-
18 lature, unless such time shall be extended by the legislature
19 for the session at which the budget is to be submitted, the
20 governor shall submit to the legislature two budgets, one for
21 each of the ensuing fiscal years. Each budget shall contain
22 a complete plan of proposed expenditures and estimated
23 revenues for the particular fiscal year to which it relates
24 and shall show the estimated surplus or deficit of revenues
25 at the end of the year. Accompanying each budget shall be
26 a statement showing: (1) the revenues and expenditures
27 for each of the two fiscal years next preceeding; (2) the
28 current assets, liabilities, reserves and surplus or deficit of
29 the state; (3) the debts and funds of the state; (4) an esti-
30 mate of the state's financial condition as of the beginning
31 and end of each of the fiscal years covered by the two budgets
32 above provided; (5) any explanation the governor may desire
33 to make as to the important features of any budget and any
34 suggestions as to methods for the reduction or increase of the
35 state's revenue.

36 *Second*. Each budget shall be divided into two parts, and the
37 first part shall be designated "governmental appropriations"
38 and shall embrace an itemized estimate of the appropriations:
39 (1) for the legislature as certified to the governor in the manner
40 hereinafter provided; (2) for the executive department; (3)
41 for the judiciary department, as provided by law, certified to
42 the governor by the auditor; (4) to pay and discharge the prin-
43 cipal and interest of any debt of the state of West Virginia
44 created in conformity with the constitution, and all laws enacted
45 in pursuance thereof; (5) for the salaries payable by the state
46 under the constitution and laws of the state; (6) for the aid
47 of public schools in conformtly with the laws of the state; (7)
48 for such other purposes as are set forth in the constitution and
49 laws made in pursuance thereof.

50 *Third*: The second part shall be designated "General appro-
51 priations," and shall include all other estimates of appropria-
52 tions.

53 The governor shall deliver to the presiding officer of each
54 house the budgets, and a bill for all the proposed appropriations
55 of the budgets clearly itemized and classified; and the presid-
56 ing officer of each house shall promptly cause said bill to be
57 introduced therein and each bill shall be known as the "Budget

58 Bill." The governor may, before final action thereon by the
59 legislature, amend or supplement either of said budgets to
60 correct an oversight; or, in case of an emergency, with the con-
61 sent of the legislature by delivering such an amendment or sup-
62 plement to the presiding officers of both houses; and such amend-
63 ment or supplement shall thereby become a part of said budget
64 bill as an addition to the items of said bill or as a modification
65 of or a substitute for any item of said bill such amendment or
66 supplement may affect.

67 The legislature shall not amend the budget bill so as to create
68 a deficit, but may amend the bill by increasing or diminishing
69 the items therein relating to the legislature, and by increasing
70 the items therein relating to the judiciary, but except as herein-
71 before specified, may not alter the said bill except to strike out
72 or reduce items therein; *provided, however*, that the salary or
73 compensation of any public officer shall not be increased or
74 diminished during his term of office.

75 When such bill has been passed by both houses it shall be
76 immediately presented to the governor, who may approve, veto
77 as a whole, veto any item therein, or decrease any item therein.

78 If the governor veto the bill as a whole, or any item therein
79 or decrease any item therein, he shall return the bill to the
80 house in which it originated, together with a statement of his
81 reasons for so doing. The legislature may by a majority vote
82 of all the members elected to each branch, taken by yeas and
83 nays, override the veto of the governor, in which case it shall
84 become a law as originally passed, notwithstanding the veto
85 of the governor.

86 *Fourth.* The governor and such representatives of the execu-
87 tive departments, boards, officers and commissions of the state
88 expending or applying for state's money as have been designated
89 by the governor for this purpose, shall have the right, and
90 when requested by either house of the legislature, it shall be
90-a their duty to appear and be heard with respect to any budget
90-b bill during the consideration thereof, and to answer inquiries
90-c relative thereto.

Sub-Section C—Supplementary Appropriation Bills

90-d Neither house shall consider other appropriations until

90-*e* the budget bill has been finally acted upon by both houses, and
90-*f* no such other appropriation shall be valid except in accordance
90-*g* with the provisions following: (1) every such appropriation
90-*h* shall be embodied in a separate bill limited to some single
90-*i* work, object or purpose therein stated and called herein a supplementary
91 appropriation bill; (2) each supplementary appropriation bill shall provide the revenue necessary to pay the
92 appropriation thereby made by a tax direct or indirect, to be
93 laid and collected as shall be directed in said bill, unless it
94 appears from such budget that there is sufficient revenue available;
95 (3) no supplementary appropriation bill shall become a law unless it be passed in each house by a vote of a majority
96 of the members present, and the yeas and nays recorded on its
97 final passage; (4) each supplementary appropriation bill shall
98 be presented to the governor of the state as provided in section
99 fourteen of article seven of the constitution, and thereafter all
100 the provisions of said section shall apply.

103 Nothing in this amendment shall be construed as preventing
104 the legislature from passing in time of war an appropriation
105 bill to provide for the payment of any obligation of the state
106 of West Virginia within the protection of section ten of article
107 one of the constitution of the United States.

108 *Sub-Section D—General Provisions*

109 *First*: If the budget bill shall not have been finally acted upon
110 by the legislature three days before the expiration of its regular
111 session, the governor may, and it shall be his duty to issue a
112 proclamation extending the session for such further period as
113 may, in his judgment be necessary for the passage of such bill
114 but no other matter than such bill shall be considered during
115 such extended session, except a provision for the cost thereof.

116 *Second*. The governor for the purpose of making up his
117 budgets shall have the power and it shall be his duty, to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and all institutions applying for state
122 moneys and appropriations, such itemized estimates and other
123 information, in such form and at such times as he shall direct.
124 The estimates for the legislative departments, certified by the

125 presiding officer of each house, of the judiciary, as provided by
125-a law, certified by the auditor, and for the public schools, as
126 provided by law, shall be transmitted to the governor, in such
127 form and at such times as he shall direct, and shall be in-
128 cluded in the budget.

129 The governor may provide for public hearing on all estim-
130 ates and may require the attendance at such hearings of repre-
131 sentatives of all agencies and of all institutions applying for
132 state moneys. After such public hearings he may, in his dis-
133 cretion, revise all estimates except those for the legislative and
134 judiciary departments and for the public schools as pro-
135-140 vided by law.

141 *Third:* The legislature may, from time to time, enact such
142 laws, not inconsistent with this section, as may be necessary
143 and proper to carry out its provisions.

144 *Fourth:* In the event of any inconsistency between any of
145 the provisions of this section and any of the other provisions of
146 the constitution, except amendments thereto heretofore made
147 and ratified by the people, the provisions of this section shall
148 prevail. But nothing herein shall be construed as prevent-
149 ing the governor from calling extraordinary sessions of the
150 legislature, as provided by section seven of article seven, or
151 as preventing the legislature at such extraordinary session
152 from considering any emergency appropriation or appropria-
153 tions.

154 If any item of any appropriation bill passed under the
155 provisions of this section shall be held invalid upon any
156 ground, such invalidity shall not affect the legality of the bill
157 or of any other item of such bill or bills.

Sec. 2. For convenience in referring to said proposed
2 amendment and in the preparation of the form of the ballot
3 hereinafter provided for, said proposed amendment is hereby
4 designated as follows: To be known as "budget amendment."

Sec. 3. For the purpose of enabling the voters of the state
2 to vote on the question of said proposed amendment to the con-
3 stitution, at the said general election to be held in the year
4 one thousand nine hundred and twenty-six, the board of ballot
5 commissioners of each county is hereby required to prepare

6 separate ballots from that of the official ballot to be voted at
7 said election, and print thereon the following:

8 BALLOT ON CONSTITUTIONAL BUDGET AMENDMENT.

9 Amending section fifty-one of article six.

10 For ratification of budget amendment.

11 Against ratification of budget amendment.

12 The said election on the proposed amendment at each place
13 of voting, shall be superintended, conducted and returned, and
14 the result thereof ascertained, by the same officers and in the
15 same manner as the election of officers to be voted for at said
16 election; and all of the provisions of the law relating to general
17 elections, including all duties to be performed by any officer or
18 board, as far as applicable and not inconsistent with anything
19 herein contained, shall apply to the election held under the
20 provisions of this act, except when it is herein otherwise pro-
21 vided. The ballots cast on the question of said proposed
22 amendment shall be counted as other ballots cast at said
23 election.

 Sec. 4. As soon as the result is ascertained the commis-
2 sioners; or a majority of them, and the canvassers (if there
3 be any) or a majority of them, at each place of voting, shall
4 make out and sign two certificates thereof in the following
5 form or to the following effect:

6 "We, the undersigned, who acted as commissioners (or can-
7 vassers, as the case may be), of the election held at,
8 in the district of, in the county of
9, on the day of,
10 one thousand nine hundred and twenty-six upon the question
11 of the ratification or rejection of the proposed constitutional
12 amendment to section fifty-one of article six. do hereby cer-
13 tify that the result of said election is as follows:

14 Amending section fifty-one of article six:

15 For ratification of budget amendment votes.

16 Against ratification for budget amendment votes.

17 Given under our hands this day of,
18 one thousand nine hundred and twenty-six.

19 The said two certificates shall correspond with each other in
20 all respects, and contain the full and true returns of said elec-
21 tion at each place of voting on said question. The said com-

22 missioners, or any one of them (or said canvassers or one of
23 them, as the case may be), shall within four days, excluding
24 Sundays, after that on which said election was held, deliver
25 one of said certificates to the clerk of the county court of his
26 county, together with the ballots, and the other to the clerk
27 of the circuit court of the county.

28 The said certificates, together with the ballot cast on the
29 question of said proposed amendment, shall be laid before the
30 commissioners of the county court at the court house at the
31 same time the ballots, poll books and the certificates of elec-
32 tion for the members of the legislature are laid before them;
33 and as soon as the result of said election in the county upon
34 the question of such ratification or rejection is ascertained,
35 two certificates of such result shall be made out and signed by
36 said commissioners, as a board of canvassers, in the form or to
37 the following effect:

38 "We, the board of canvassers of the county of,
39 having carefully and impartially examined the returns of the
40 election held in said county, in each district thereof, on the
41 second day of November, one thousand nine hundred and
42 twenty-six, do certify that the results of the election in said
43 county on the question of the ratification or rejection of the
44 proposed amendment to section fifty-one of article six is as
45 follows:

46 For ratification of budget amendment votes.

47 Against ratification of budget amendment votes.

48 Given under our hands this day of,
49 one thousand nine hundred and twenty-six.

50 One of the certificates shall be filed in the office of the clerk
51 of the county court, and the other forwarded by mail to the
52 secretary of state who shall file and preserve the same until
53 the day on which the result of said election in the state is to
54 be ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificates shall be
3 laid before the governor, whose duty it shall be to ascertain
4 therefrom the result of said election in the state, and declare
5 the same by proclamation published in one or more newspapers
6 published at the seat of government. If a majority of the
7 votes cast at said election upon said question be for the ratifi-

8 cation of said amendment, the proposed amendment so ratified
9 shall be of force and effect from and after the time of such
10 ratification, as part of the constitution of the state:

Sec. 6. The governor shall cause the said proposed amend-
2 ment, with the proper designation for the same as hereinbefore
3 adopted, to be published one time at least three months before
4 such election, in some newspaper in every county in which a
5 newspaper is printed, at a price to be agreed upon in advance,
6 in writing, and the cost of such advertising shall in the first
7 instance, if found necessary by him, be paid out of the
8 governor's contingent fund and be afterwards repaid to such
9 fund by appropriation of the legislature.

CHAPTER 59

(Senate Bill No. 130—By Mr. Johnson)

AN ACT to amend and re-enact section twenty-three of chapter
thirty of the code of West Virginia, relating to the publication
and posting of delinquent lists.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec. 23.	Post delinquent list at front door of court house; publish list in		newspapers; the cost thereof; sheriff to collect delinquent taxes.
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Be it enacted by the Legislature of West Virginia:

That section twenty-three of chapter thirty of the code of West Virginia, relating to publication and posting delinquent lists, be and the same is hereby amended and re-enacted so as to read as follows:

Section 23. A copy of each of said lists shall be posted at the
2 front door of the court house of the county, at least two weeks
3 before the session of the county court at which they are presented
4 for examination. And a copy of each of said lists shall at the
5 same time be published for one time in two newspapers of gen-
6 eral circulation and of opposite politics and representing the
7 two major political parties in said county, but if only one news-
8 paper is published in any county such lists shall be published
9 therein, the costs thereof to be paid out of the county treasury.
10 Thereafter the sheriff shall proceed to collect such delinquent
11 taxes.

CHAPTER 60

(House Bill No. 349—By Mr. Dorsey)

AN ACT to amend and re-enact section forty-nine of chapter thirty-one of the code of West Virginia, relating to the publication of sales list.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec. 49. Publication delinquent land sales, | form of; how made; land redeemed.

Be it enacted by the Legislature of West Virginia:

That section forty-nine of chapter thirty-one of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 49. It shall be the duty of the sheriff or other officer making sales of lands by virtue of this chapter, within one month after such sales are closed, to cause to be published in two newspapers representing the two political parties casting the greater vote in the county, if two such newspapers are so published, otherwise in some newspaper published in the county (if one be printed therein), a list of all the sales made by him as aforesaid, describing the tracts as well as the quantity of the land sold, and to whom sold, once each week for four successive weeks, which publication shall be made, in all respects, subject to the provisions of section six of this chapter, and shall be in form or effect as follows:

“List of real estate sold in the county of....., in the month (or months) of....., 19...., for the non-payment of taxes charged thereon for the year (or years) 19...., and purchased by individuals and the state of West Virginia:

NAME OF PERSON CHARGED WITH TAXES	Local Description of Lands.	Quantity of Land Charged.	Quantity of Land Sold.	Name of Purchaser.	Whole Amount Paid by the Purchaser.

18 The owner of any real estate above described and sold, his
 19 heirs or assigns, or any person having a right to charge such
 20 real estate for a debt, may redeem the same by paying to the
 21 purchaser, his heirs or assigns, within one year from the sale
 22 thereof, the amount specified in the last column of the above
 23 table, and such additional taxes thereon as may have been paid
 24 by the purchaser, his heirs or assigns, with interest on such
 25 purchase money and taxes at the rate of twelve per centum
 26 per annum, from the time the same may have been so paid.

27 Given under my hand this day of.....
 28 19....

29 A..... B.....

29-a Sheriff (or Collector.)”

30 The sheriff shall include the costs of publication to be paid by
 31 the purchaser, the costs of such publication as fixed by law,
 32 which shall be the amount so fixed by law to each newspaper
 33 publishing the same. If there be no newspaper published in
 34 the county, or if no newspaper published therein will publish
 35 such notice for the compensation provided by law, it shall be
 36 the duty of the sheriff to post in the most public place, in each
 37 magisterial district in his county, a list of all sales by him so
 38 made, describing the tracts as well as the number of acres sold,
 39 and to whom sold.

CHAPTER 61

(Senate Bill No. 136—By Mr. Johnson)

AN ACT to amend and re-enact chapter seventeen of the acts of the legislature of the regular session of one thousand nine hundred and thirteen, relating to railroad companies.

[Passed March 30, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Consolidation of railroad stock, property or franchises not permitted: lease, purchase, become owner of or control parallel railroads prohibited; facts to be determined by jury.
2. Unlawful for one railroad company to own, hold or control capital stock of a corporation which owns or controls competing

Sec.

- or parallel railroad lines.
3. Penalties.
4. Circuit courts have jurisdiction to prevent and restrain violations hereof; proceedings in equity; restraints; no suit dismissed for want of parties.
5. Repeal conflicting or inconsistent acts.

Be it enacted by the Legislature of West Virginia:

That chapter seventeen of the acts of the legislature of the regular session of one thousand nine hundred and thirteen relating to railroad properties, be amended and re-enacted so as to read as follows:

Section 1. No railroad company organized and existing
 2 under the laws of the state of West Virginia, or organized
 3 under the laws of the state of Virginia prior to June twenty-
 4 one, one thousand eight hundred and sixty-three, or existing
 5 by a consolidation of other railroad corporations; no railroad
 6 company organized under the laws of any other state or terri-
 7 tory, which owns, controls or operates any railroad in the state
 8 of West Virginia, or which transacts business in the state of
 9 West Virginia shall consolidate its stock, property or franchises
 10 with that of any other railroad company, or lease, purchase
 11 or in any manner become owner of or control any railroad
 12 corporation which owns, controls or operates any parallel or
 13 any competing line of railroad which is located, or any part
 14 of which is located in the state of West Virginia; the fact of
 15 such consolidation of stock, property or franchises, or of such
 16 lease, purchase or ownership of or control by any such railroad
 17 company of any railroad corporation which owns, controls or
 18 operates any parallel or any competing line of railroad which
 19 is located or any part of which is located in the state of West
 20 Virginia, shall be determined by a jury if and whenever it shall
 21 be necessary to so determine the same.

Sec. 2. On and after July first, one thousand nine hundred 2 and twenty-five, it shall be unlawful for any such railroad 3 company as is mentioned in section one of this act, to hold, own 4 or control, either directly or by the ownership of capital stock 5 of some other corporation, any railroad company which owns or 6 controls any competing line or parallel line of railroad, all or 7 any part of which is located in the state of West Virginia.

Sec. 3. Any railroad company violating any provision of 2 this act shall be guilty of a misdemeanor, and, upon conviction, 3 shall be fined not more than five thousand dollars for each 4 offense. Each director and general officer of any railroad com- 5 pany so offending shall likewise be guilty of a misdemeanor, 6 and, upon conviction, shall be fined not more than one thou- 7 sand dollars or be confined in jail not less than six months nor 8 more than one year for each offense. The circuit or criminal 9 court of any county in the state in which such railroad cou- 10 pany is engaged in the business of a common carrier shall have 11 jurisdiction to try and punish any offender under this act.

Sec. 4. The several circuit courts of the counties of West 2 Virginia are hereby given jurisdiction to prevent and restrain 3 violations of this act, and by mandamus to compel obedience to 4 its provisions, and it shall be the duty of the prosecuting 5 attorneys of the several counties, under the direction of the 6 attorney general, to institute and prosecute proceedings in 7 equity and also at law, in the name of the state of West Vir- 8 ginia, to enforce the provisions of this act. Two or more resi- 9 dents of any county in which any railroad mentioned in this 10 act owns property or transacts business may institute and 11 prosecute in their own names any suit in equity, or by mandamus 12 restrain violations of, and any suit in equity, or by mandamus 13 or otherwise at law, to compel obedience to the provisions of 14 this act; and it shall not be necessary for them to show any 15 special injury in any suit or proceedings. No suit when insti- 16 tuted shall be dismissed for want of parties, but any person or 17 corporation may be made a party at any stage of the proceed- 18 ings whenever it appears necessary to a proper decision of the 19 suit.

Sec. 5. All acts and parts of acts in conflict or inconsistent 2 with the provisions of this act are hereby repealed.

CHAPTER 62

(Senate Bill No. 143—By Mr. Johnson)

AN ACT to repeal section thirteen-*a* of chapter one hundred and seventeen of Barnes' code of one thousand nine hundred and twenty-three relating to reports of clerks of courts.

[Passed April 21, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Repealing section 13-*a* of chapter 117, Barnes' Code of 1923, relating to reports of clerks of courts.

Be it enacted by the Legislature of West Virginia:

That section thirteen-*a* of chapter one hundred and seventeen of Barnes' code one thousand nine hundred and twenty-three relating to the duties of clerks of courts, be repealed as follows:

Section 1. That section thirteen-*a* of chapter one hundred 2 and seventeen of Barnes' code of one thousand nine hundred 3 and twenty-three requiring clerks of courts to make reports of 4 suits, claims and levies to the auditor be and the same is hereby 5 repealed.

CHAPTER 63

(Senate Bill No. 164—By Mr. Baker)

AN ACT to amend and re-enact section four of chapter eight, acts of the legislature of one thousand nine hundred and eight, and being section forty-nine-*c* (4) of chapter forty-seven, Barnes' code, one thousand nine hundred and twenty-three.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

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| <ol style="list-style-type: none"> 4. Council authorized to make special assessments for improvements; specifications; method of paying to be designated; notice; payment of assessments; publication of resolution; transfer of assessments for collections; issuing certificates of indebtedness; lien; release of lien; form provided by attorney | <p>general; not affecting municipal corporations created since 1872; additional method for securing improvements; apportionment of cost; regulations; no time limit on lien; certificates negotiable; default of payment; anticipating assessment; repealing inconsistent acts.</p> |
|---|---|

Be it enacted by the Legislature of West Virginia:

That section four of chapter eight of the acts of the legislature for the year one thousand nine hundred and eight, being section forty-nine-*c* (4), Barnes' code, one thousand nine hundred and twenty-three, relating to municipal improvements, be amended and re-enacted to read as follows:

Section 4. Whenever it is deemed expedient by the common council of any city, town or village, or other body or bodies having such matters in charge under the charter, having a population of one thousand or more, to provide for the grading, paving, curbing, sewerage, macadamizing or otherwise improving any street or alley therein, to be paid for in whole or in part by special assessments, said council or other body or bodies having such matters in charge under the charter, shall declare by resolution, three-fifths of the whole number elected thereto concurring, by an aye and no vote, the necessity of such improvement. At the time of the passage of such resolution the council, or other body or bodies having such matters in charge under the charter, shall have on file in the office of the city recorder or town clerk, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and improvements, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open to the inspection of all persons interested. Said resolution shall determine the general nature of the improvement, what shall be the grade of the street, alley or other public place to be improved, as well as the grade or elevation of the curbs, and said council shall approve the plans, specifications estimates and profiles for the proposed improvement.

The council, or other body or bodies having such matters in charge under the charter, shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications, whether by an appropriation from funds in the treasury unappropriated, or whether or *a* by the issuance of certificates as hereinafter provided or whether or not bonds shall be issued in anticipation of the collection of special assessments to be made against the abutting property owners, as provided for in section forty-nine-c (2) of this chapter. But before any such resolution shall be passed, providing that improvements shall be made, the same to be paid for by assessments against abutting property, at least thirty days' written notice of the intention to pass such resolution shall be served on each of the abutting property owners by personal service, or if not found and their residence is

40 unknown, then by publication, and such owners shall have
41 the right to be heard for or against the passage thereof.

42 Assessments shall be payable in ten installments as pro-
43 vided for in said section forty nine-c (2), and shall be
44 recorded and constitute a lien as therein provided. The
45 resolution herein provided for declaring the necessity for said
46 improvement shall be published at least once a week for two
47 successive weeks after its adoption in two newspapers of
48 general circulation, and of opposite politics, in the city, town
49 or village in which said improvements are to be made, and
50 an affidavit of the publisher showing publication for such
51 time, together with a copy of said notice attached, shall be
52 filed with the recorder or clerk of the council, or other body
53 or bodies having such matters in charge under the charter,
54 and spread upon the record of the minutes of the next meet-
55 ing of the council, or other body or bodies having such matters
56 in charge under the charter. Where there are not two news-
57 papers of general circulation and of opposite politics in the
58 city, town or village, publication in one newspaper of general
59 circulation therein for the required time shall be all that is
60 required for this or any other notice provided for by this
61 chapter. Said resolution shall be in effect from and after the
62 first publication thereof as herein provided for. If there be
63 no newspaper in such corporation, the notice may be given by
64 posting on the front door of the building where the council,
65 or other body or bodies having such matters in charge under
66 the charter of such corporation holds its meetings.

67 In all cases where an assessment is made upon the property
68 abutting on the street or alley improved in accordance with
69 the provisions contained in this and the two preceding sec-
70 tions, the council or other body or bodies having such matters
71 in charge under the charter of such city, town or village, may
72 by resolution entered of record by it, or them, sell, assign and
73 transfer to any person or persons, for a cash consideration,
74 all or any of the assessments perfected as provided in said
75 section, and apply the amount received thereby to the pay-
76 ment of the costs of such improvements, but no such sale and
77 assignment shall be made until either bonds or certificates of
78 indebtedness shall have been issued for such assessment, which
79 shall be described in detail in the notice of the lien thereof to
80 be recorded in the trust deed record in the office of the clerk
81 of the county court. But no sale or transfer of such assess-

82 ment shall be a greater discount than five per centum of the
83 aggregate sum represented by said sale. When authorized to
84 do so by the council or other body or bodies, having such
85 matters in charge, the mayor or other chief officer of such city,
86 town or village, may make an assignment and transfer of said
87 assessments, so evidenced by such bonds or certificates of
88 indebtedness as aforesaid; and when so made, and recorded in
89 the trust deed book in the office where said assessments are
90 recorded, the purchaser of such assessments shall be and
91 remain until the payment thereof subrogated to all of the
92 rights and remedies, without recourse on such city, town or
93 village, as were obtained by recording said assessments in the
94 first instance, and such council, or other body or bodies having
95 such matters in charge, may issue against each of the several
96 properties upon which said assessments have been made, bonds
97 or certificates of indebtedness in denomination and corre-
98 sponding to the annual sum to be paid on each of the proper-
99 ties so assessed and the assessments on said properties shall,
100 when so made and recorded, remain and be a lien thereon until
101 all such bonds or certificates of indebtedness are discharged.
102 The lien created by such assessment and by the issuance of any
103 bonds or certificates issued therefor may be released as pro-
104 vided by law in the case of other liens, and, in addition
105 thereto, upon presentation to the clerk of the county court of
106 the county wherein the real estate subject to said lien is situ-
107 ated all the bonds or certificates issued thereunder, as to any
108 specific real estate therein described or located, showing that
109 the same have all been paid, such clerk is hereby empowered
110 to release the lien of such assessment as to any such real
111 estate, by noting a release thereof on the record of the lien
112 as to such real estate on the margin of the deed of trust book,
113 where the same is recorded, and such annotation by such clerk
114 shall have the effect to release such real estate from such lien
115 as effectively as a regularly executed and recorded release
116 thereof. The proceeds of the sale of such bonds or certificates
117 of indebtedness shall be applied to the payment of the indebt-
118 edness incurred in making the improvements on account of
119 which such bonds or certificates of indebtedness were issued.
120 should said governing body or bodies of any city, town or
121 village, decide to issue bonds or certificates of indebtedness,
122 as herein provided, it or they, may call upon the attorney gen-

123 eral of this state for, and it shall be his duty to furnish a form
124 for all such bonds or certificates of indebtedness. The provi-
125 sions of this section, as re-enacted, shall not apply to any
126 municipal corporation created by special act of the legislature
127 passed since the adoption of the constitution of one thousand
128 eight hundred and seventy-two.

129 In addition to the methods hereinbefore and hereinafter pre-
130 scribed for the payment of the cost of construction and im-
131 provement of streets, sewers and sewer systems, the council or
132 other governing body may order any street, alley, or portion
133 thereof, to be graded and paved, re-paved, or otherwise per-
134 manently improved, or may order any sewer constructed and
135 laid in any street, alley or in any right of way or easement, or
136 portion thereof, and the council may order to be issued a cer-
137 tificate for each installment of the amount of the assessment
138 to be paid by the owner of any lot or fractional part thereof
139 abutting on the street, or alley so improved, or on the
140 street, alley, right of way or easement, or portion thereof, in
141 which such sewer is laid. The amount specified in said as-
142 sessment shall be a lien as aforesaid in the hands of the holder
143 of such certificate upon such abutting lot or part of lot, and
144 such certificate shall draw interest from the date of said as-
145 sessment and the payment may be enforced in the name of the
146 holder of said certificate by proper suit in equity in any court
147 having jurisdiction to enforce such lien; the council shall fix
148 the amount of such assessment, advertise for bids and do all
149 other things in connection therewith as is hereinbefore and
150 hereinafter provided in this chapter, except (1) that the
151 amount of such certificate shall include the whole cost of such
152 improvement, including the cost of grading, paving and curb-
153 ing squares at intersections of streets, the costs of which inter-
154 sections shall be apportioned against the several properties
155 abutting upon the street or portion thereof so improved; (2)
156 when a sewer is completed, the cost of which is to be paid
157 by the issuance of certificates; payment is to be made by such
158 land owner on either side or such portion of a street, alley,
159 right of way or easement in which such sewer is laid, in such
159-a proportion as such frontage of his land upon said street,
159-b alley, right of way or easement bears to the total frontage of
159-c all lands so abutting on such street, alley, right of way or
159-d easement. In case of a corner lot, frontage is to be measured

159-*e* along the longest dimension thereof abutting on such street,
159-*f* alley, right of way or easement in which such sewer is laid.
159-*g* Any lot having a depth of two hundred feet or more and
159-*h* fronting on two streets, alleys, rights of way or easements, one
159-*i* in front and one in the rear of said lot shall be assessed on
159-*j* both of said streets, alleys, rights of way or easements, if a
160 sewer is constructed in both such streets, alleys, rights of way
161 or easements. Where a corner lot has been assessed on the end it
162 shall not be assessed on the side, and where it has been assessed
163 on the side, it shall not be assessed on the end. (3) The cost of a
164 sewer system shall be calculated in every respect in the same
165 manner as the rest of the construction of a single sewer, except
166 that such a system shall be deemed to include all elements of the
167 system which serve to drain a definite drainage area as speci-
168 fied in the order of the council directing the work to be done,
169 and the owners of property abutting upon either side of such
170 portion of a street or right of way in which any part of such
171 system is laid shall be assessed in the proportion that the front-
172 age his land abutting bears to the total frontage of all lands
173 so abutting on such street or right of way. Paving certificates
174 shall be issued in the same number of installments and pay-
175 able at the same time as other paving assessments provided for
176 in this chapter. Sewerage certificates shall be issued in such
177 number of installments as the council or other governing body
178 may determine, the aggregate amount of such certificates to be
179 payable in not less than one nor more than five years, and
180 to be divided in as nearly equal installments as practicable.
181 Nothing contained in this act shall be construed as imposing
182 a time limit upon the enforcement by appropriate suit of any
183 lien for public improvements, heretofore or hereafter created.
184 Certificates authorized by this section may be issued, sold or
185 negotiated to the contractor doing the work, or to any other
186 person if the council deem it expedient; *provided*, the city or
187 town in issuing such certificates shall not be held as guarantor
188 or in any way liable for payment thereof, except upon the di-
189 rect action of the council expressed by resolution of record
190 before sale.
191 Certificates so issued shall contain a provision to the effect
192 that in the event of default in the payment of any one of said
193 certificates when due, and said default continuing for a period
194 of sixty days, then all unpaid certificates shall become due and

195 payable and the holder of said certificates may proceed to
 196 collect all of such unpaid certificates in the manner herein-
 197 before provided. Certificates issued in pursuance of this sec-
 198 tion shall be negotiable at any bank in the city or town by
 199 which they are issued.

200 The owner of the land or lot of land assessed under this
 201 section may at any time anticipate and pay such assessment.
 202 or certificate with accrued interest thereon.

All acts in conflict with, or inconsistent with this act, are hereby repealed.

CHAPTER 64

(Senate Bill No. 187—By Mr. Wilkin)

AN ACT to amend and re-enact chapter ninety-nine-a of Barnes' code of the year one thousand nine hundred and twenty-three, relating to conditional sales.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.	Sec.
1. Definition of terms.	15. Fraudulent injury to property; concealment; removal or sale.
2. Primary rights of buyer.	16. Re-taking possession of property.
3. Primary rights of seller.	17. Notice of intention to re-take property.
4. Conditional sales valid as otherwise provided.	18. Redemption of property by buyer after re-taking; seller to furnish statement of amount due; penalty for failure to do so; exceptions.
5. Conditional sales void as to certain persons.	19. Compulsory re-sale by seller; give notice.
6. Place of filing conditional sales contracts.	20. Re-sale at option of parties.
7. Goods affixed to realty to become a part thereof; reservation of property void as against subsequent purchaser; void when property is to be affixed to realty or become a part of; when.	21. Proceeds of re-sale.
8. Railroad equipment or rolling stock.	22. Deficiency on re-sale.
9. Conditional sale of goods for re-sale.	23. Rights of parties in no re-sale.
10. Filing, mark time of.	24. Election of remedies.
11. Filing and recording contracts.	25. Recovery of part payments.
12. Cancellation of contracts.	26. Waiver of statutory protection.
13. Removal or sale without notice, prohibited; exceptions.	27. Loss or increase.
14. Re-filing contract on removal of goods; duration of validity of re-filing or re-recording.	28. This act prospective only.
	29. Rules for cases not provided for.
	30. Destruction of contract or copy after validity ceases.
	31. Uniformity of interpretations.
	32. Short title.
	33. Inconsistent laws repealed.

Be it enacted by the Legislature of West Virginia:

That chapter ninety-nine of the code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Definition of Terms

Section 1. In this act "conditional sale" means: (1) any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (2) any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the goods and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such goods upon full compliance with the terms of the contract.

"Buyer" means the person who buys or hires the goods covered by the conditional sale or any legal successor in interest of such person.

"Filing district" means the subdivision of the state in which conditional sale contracts, or copies thereof, are required by this act to be filed.

"Goods" means all chattels personal other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming a part of land which are agreed to be severed before sale or under the conditional sale.

"Performance of the condition" means the occurrence of the event upon which the property in the goods is to vest in the buyer, whether such event is the performance of an act by the buyer or the happening of a contingency.

"Person" includes an individual, partnership, corporation and any other association.

"Purchase" includes mortgage and pledge.

"Purchaser" includes mortgagee and pledgee.

"Seller" means the person who sells or leases the goods covered by the conditional sale or any legal successor in interest of such person.

Primary Rights of Buyer

Sec. 2. The buyer shall have the right, when not in default, to retain possession of the goods, and he shall also have the right to acquire the property in the goods on the performance of

4 the conditions of the contract. The seller shall be liable to the
5 buyer for the breach of all promises and warranties, express or
6 implied, made in the conditional contract, whether or not the
7 property in the goods has passed to the buyer.

Primary Rights of Seller

Sec. 3. The buyer shall be liable to the seller for the pur-
2 chase price, or for installments thereof, as the same shall become
3 due, and for breach of all promises made by him in the con-
4 ditional sale contract, whether or not the property in the goods
5 has passed to the buyer.

Conditional Sales Valid Except as Otherwise Provided

Sec. 4. Every provision in a conditional sale reserving prop-
2 erty in the seller after possession of the goods is delivered to
3 the buyer, shall be valid as to all persons, except as hereinafter
4 otherwise provided.

Conditional Sales Void as to Certain Persons

Sec. 5. Every provision in a conditional sale reserving prop-
2 erty in the seller shall be void as to any purchaser from or cred-
3 itor of the buyer, who, without notice of such provision, pur-
4 chases the goods or acquires by attachment or levy a
5 lien upon them before the contract or a copy thereof shall be
6 filed as hereinafter provided, unless such contract or copy is
7 so filed within ten days after the making of the conditional sale.

Place of Filing

Sec. 6. The conditional sale contract or copy shall be filed
2 in the office of the clerk of the county court in the county in
3 which the goods are first kept, for use by the buyer after the
4 sale and for the inspection of all persons interested. It shall
5 not be necessary to the validity of such conditional sale con-
6 tract, or in order to entitle it to be filed, that it be acknowledged
7 or attested. This section shall not apply to the contracts de-
8 scribed in section eight.

Fixtures

Sec. 7. If the goods are so affixed to realty at the time of a
2 conditional sale or subsequently, as to become a part thereof
3 and not to be severable wholly or in any portion without ma-

4 terial injury to the freehold the reservation of property as to
5 any portion not so severable shall be void after the goods are
6 so affixed, as against any person who has not expressly assented
7 to the reservation. If the goods are so affixed to realty at the
8 time of a conditional sale or subsequently as to become a part
9 thereof but to be severable without material injury to the free-
10 hold, the reservation of property shall be void after the goods
11 are so affixed as against subsequent purchasers of the realty for
12 value and without notice of the conditional seller's title, unless
13 the conditional sale contract or a copy thereof, together with a
14 statement signed by the seller briefly describing the realty and
15 stating that the goods are or are not to be affixed thereto, shall be
16 filed before such purchase in the office where a deed of the realty
17 would be filed or registered to affect such realty. As against
18 the owner of realty, the reservation of the property in goods by
19 a conditional seller shall be void when such goods are to be so
20 affixed to the realty as to become part thereof but to be sever-
21 able without material injury to the freehold, unless the condi-
22 tional sale contract, or a copy thereof, together with a state-
23 ment signed by the seller briefly describing the realty and stat-
24 ing that the goods are to be affixed thereto shall be filed before
25 they are affixed in the office where a deed would be recorded or
26 registered to affect such realty.

Railroad Equipment or Rolling Stock

Sec. 8. No conditional sale of railroad or street or inter-
2 urban railway equipment or rolling stock shall be valid as against
3 the purchasers and creditors described in section five unless the
4 contract shall be acknowledged by the buyer or attested in like
5 manner as a deed of real property and the contract, or a copy
6 thereof, shall be recorded in the office of the secretary of state;
7 and unless when any engine or car so sold is delivered there
8 shall then be plainly and conspicuously marked upon each side
9 thereof the name of the seller, followed by the word "owner."

Conditional Sale of Goods for Re-sale

Sec. 9. When goods are delivered under a conditional sales
2 contract, trust receipt or reservation of title, the buyer shall
3 not sell, or otherwise dispose of such goods or chattels without
4 the expressed permission in writing of the holder of conditional
5 sales contract, reservation of title or trust receipt. Upon

6 securing such permission in writing the buyer may resell such
7 goods or chattels prior to performance of the conditions of con-
8 ditional sales contract, reservation of title, or trust receipt and
9 the reservation of property shall be void against purchasers
10 from the buyer for value in the ordinary course of business,
11 and as to them the buyer shall be deemed the owner of the
12 goods, even though the contract or copy thereof shall be
13 recorded according to the provisions of this act.

Filing

Sec. 10. The filing officer shall mark upon the contract of
2 copy left with him for filing the time of receiving it and its
3 consecutive number and enter in a book to be provided by the
4 county the names of all parties thereto, alphabetically arranged,
5 with the number of the instrument, its date, the day of filing and
6 the amount secured thereby, which entry must be repeated al-
7 phabetically under the name of every party thereto; for the
8 filing of which said contract or copy, a fee of fifty cents shall
9 be charged.

Filing and Recording

Sec. 11. The filing of conditional sale contracts provided
2 for in sections five, six and seven, shall be valid for a period of
3 three years only. The recording of the contract provided for
4 by section eight shall be valid for a period of fifteen years only.
5 The validity of the filing or recording may in each case be ex-
6 tended for successive additional periods of one year from the
7 date of re-filing or re-recording by filing or recording in the
8 proper county a copy of the original contract within thirty
9 days next preceding the expiration of each period with a state-
10 ment attached signed by the seller showing that the contract is
11 in force and the amount remaining to be paid thereon. Such
12 copy, with statement attached, shall be filed or recorded in the
13 same manner as a contract or copy for the first time, and the
14 filing or recording officer shall be entitled to a like fee as upon
15 the original filing or recording.

Cancellation of Contract

Sec. 12. After the performance of the condition, upon writ-
2 ten demand delivered personally or by registered mail by the
3 buyer or any other person having an interest in the goods, the

4 seller shall execute, acknowledge and deliver to the demandant a
5 statement that the condition in the contract has been performed.
6 If for ten days after such demand the seller fails to mail or
7 deliver such a statement of satisfaction he shall forfeit to the
8 demandant five dollars and be liable for all damages suffered.
9 Upon presentation of such statement of satisfaction the record-
10 ing officer shall record the same and note the cancellation of
11 the contract and the date thereof on the margin of the page
12 where the record of the contract has been entered. For re-
13 cording the statement of satisfaction the recording officer shall
14 charge a fee of fifty cents for entering a statement of the
15 satisfaction of a contract described in section eight.

Prohibition of Removal or Sale Without Notice

Sec. 13. Unless the contract otherwise provides, the buyer
2 may, without the consent of the seller, remove the goods from
3 any county wherein the contract is filed and sell, mortgage or
4 otherwise dispose of his interest in them; but prior to the per-
5 formance of the condition, no such buyer shall remove the
6 goods from a county in which the contract or a copy thereof is
7 filed, except for temporary uses for a period of not more than
8 thirty days, unless the buyer not less than ten days before such
9 removal shall give the seller personally or by registered mail
10 written notice of the place to which the goods are to be re-
11 moved and the approximate time of such intended removal;
12 nor prior to the performance of the condition shall the buyer
13 sell, mortgage or otherwise dispose of his interest in the goods,
14 unless he or the person to whom he is about to sell, mortgage
15 or otherwise dispose of the same, shall notify the seller in writ-
16 ing personally or by registered mail of the name and address
17 of the person to whom his interest in the goods is about to be
18 sold, mortgaged or otherwise transferred, not less than ten days
19 before such sale, mortgage or other disposal. If any buyer
20 does so remove the goods, or does so sell, mortgage or other-
21 wise dispose of his interest in them without such notice or in
22 violation of the contract, the seller may re-take possession of
23 goods and deal with them as in case of default in payment of
24 part or all of the purchase price. The provisions of this sec-
25 tion regarding the removal of goods shall not apply, however,
26 to the goods described in section eight.

Re-filing on Removal

Sec. 14. When, prior to the performance of the condition, the goods are removed by the buyer from one county in this state to another county in this state, in which such contract or a copy thereof is not filed, or are removed from another state into a county in this state where such contract or copy is not filed, the reservation of the property in the seller shall be void as to the purchasers and creditors described in section five, unless the conditional sale contract or a copy thereof shall be filed in the county to which the goods are removed within ten days after the seller had received notice of the county to which the goods have been removed. The provisions of this section shall not apply, however, to the goods described in section eight. The provisions of section eleven regarding the duration of the validity of the filing or recording and the necessity for re-filing or re-recording shall apply to contracts or copies which are filed or recorded in a county other than that where the goods are originally kept for use by the buyer after the sale.

Fraudulent Injury, Concealment, Removal or Sale

Sec. 15. When prior to the performance of the condition the buyer, maliciously or with intent to defraud, shall injure, sell or otherwise dispose of, destroy or conceal the goods, or remove them to another state or to a county in this state where the contract or copy thereof is not recorded without having secured the written consent of the holder of conditional sales contract, trust receipt or reservation of title of the goods, the buyer shall be guilty of a misdemeanor, if the amount of goods so removed, injured, concealed, mortgaged, sold or otherwise disposed of is less than twenty dollars, and upon conviction thereof shall be imprisoned in the county jail for not more than one year, or be fined not more than five hundred dollars, or both. Where the amount due on the goods or chattels thus injured, destroyed, concealed, removed, mortgaged, sold or otherwise disposed of is greater than twenty dollars, the buyer shall be guilty of a felony and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the penitentiary for not less than one year nor more than five years, or both in the discretion of the court.

Re-taking Possession

Sec. 16. When the buyer shall be in default in the payment
2 of any sum due under the contract, or in the performance of
3 any other condition which the contract requires him to perform
4 in order to obtain the property in the goods, or in the per-
5 formance of any promise the breach of which is by the con-
6 tract expressly made a ground for the re-taking of the goods,
7 the seller may re-take possession thereof. Unless the goods can
8 be re-taken without breach of the peace they shall be re-taken
9 by legal process; but nothing herein shall be construed to au-
10 thorize a violation of the criminal law.

Notice of Intention to Re-take

Sec. 17. Not more than forty nor less than twenty days prior
2 to the re-taking, the seller, if he so desires, may serve upon the
3 buyer personally, or by registered mail, a notice of intention
4 to re-take the goods on account of the buyer's default. The
5 notice shall state the default and the period at the end of which
6 the goods will be re-taken, and shall briefly and clearly state
7 what the buyer's rights under this act will be in case they are
8 re-taken. If the notice is so served and the buyer does not per-
9 form the obligations in which he has made default before the day
10 set for re-taking, the seller may re-take the goods and hold them
11 subject to the provisions of sections nineteen, twenty, twenty-
12 one, twenty-two and twenty-three regarding re-sale, but with-
13 out any right of redemption.

Redemption

Sec. 18. If the seller does not give the notice of intention to re-
2 take described in section seventeen, he shall retain the goods for
3 ten days after the re-taking within the state in which they were
4 located when re-taken, during which period the buyer, upon pay-
5 ment or tender of the amount due under the contract at the
6 time of re-taking and interest, or upon performance or tender
7 of performance of such other condition as may be named in
8 the contract as precedent to the passage of the property in the
9 goods, or upon performance or tender of performance of any
10 other promise for the breach of which the goods were re-taken,
11 and upon payment of the expenses of re-taking, keeping and

12 storage, may redeem the goods and become entitled to take
13 possession of them and to continue in the performance of the
14 contract as if no default had occurred.

15 Upon written demand delivered personally or by registered
16 mail by the buyer, the seller shall furnish to the buyer a written
17 statement of the sum due under the contract and the expense
18 of re-taking, keeping and storage. For failure to furnish such
19 statement within a reasonable time after demand the seller
20 shall forfeit to the buyer ten dollars and also be liable to him for
21 all damages suffered because of such failure. If the goods are
22 perishable so that retention for ten days as herein prescribed
23 would result in their destruction or substantial injury, the pro-
24 visions of this section shall not apply, and the seller may re-sell
25 the goods immediately upon their re-taking. The provision of
26 this section requiring the retention of the goods within the state
27 during the period allowed for redemption shall not apply to the
28 goods described in section eight.

Compulsory Re-sale by Seller

Sec. 19. If the buyer does not redeem the goods within ten
2 days after the seller has re-taken possession and the buyer has
3 paid at least fifty per cent of the purchase price at the time of
4 the re-taking, the seller shall sell them at public auction in the
5 state where they were at the time of the re-taking, such sale
6 to be held not more than thirty days after re-taking. The seller
7 shall give to the buyer not less than ten days written notice of
8 the sale, either personally or by registered mail, directed to
9 the buyer at his last known place of business or residence. The
10 seller shall also give notice of the sale by at least three notices
11 posted in different public places within the county where the
12 goods are to be sold, at least five days before the sale. If at
13 the time of the re-taking five hundred dollars or more has been
14 paid on the purchase price the seller shall also give notice of the
15 sale at least five days before the sale by publication in a news-
16 paper published or having a general circulation within the
17 county where the goods are to be sold. The seller may bid for
18 the goods at the re-sale. If the goods are of the kind described
19 in section eight the parties may fix in the conditional sale con-
20 tract the place where the goods shall be re-sold.

Re-sale at Option of Parties

Sec. 20. If the buyer has not been paid at least fifty per cent of the purchase price at the time of the re-taking, the seller shall not be under a duty to re-sell the goods as prescribed in section nineteen unless the buyer serves upon the seller, within ten days after the re-taking, a written notice demanding a re-sale, delivered personally or by registered mail. If such notice is served the re-sale shall take place within thirty days after the service, in the manner, at the place and upon the notice prescribed in section nineteen. The seller may voluntarily re-sell the goods for account of the buyer on compliance with the same requirements.

Proceeds of Re-sale

Sec. 21. The proceeds of the re-sale shall be applied: (1) to the payment of the expenses thereof; (2) to the payment of the expenses of re-taking, keeping and storing the goods; (3) to the satisfaction of such claims as shall be paid to the buyer.

Deficiency on Re-sale

Sec. 22. If the proceeds of the re-sale are not sufficient to defray the expenses thereof, and also the expenses of re-taking, keeping and storing the goods and the balance due upon the purchase price, the seller may recover the deficiency from the buyer, or from anyone who has succeeded to the obligation of the buyer.

Rights of Parties Where There Is No Re-sale

Sec. 23. Where there is no re-sale, the seller may retain the goods as his own property without obligation to account to the buyer except as provided in section twenty-five, and the buyer shall be discharged of all obligations.

Election of Remedies

Sec. 24. After the re-taking of possession as provided in section sixteen the buyer shall be liable for the price only after a re-sale and only to the extent provided in section twenty-two. Neither the bringing of an action by the seller for the recovery of the whole or any part of the price, nor the recovery of judgment in such action, nor the collection of a portion of the price, shall be deemed inconsistent with a later re-taking of the goods

8 as provided in section sixteen. But such right of re-taking shall
9 not be exercised by the seller after he has collected the entire
10 price, or after he has claimed a lien upon the goods, or at-
11 tached them, or levied upon them as the goods of the buyer.

Recovery of Part Payments

Sec. 25. If the seller fails to comply with the provisions of
2 sections eighteen, nineteen, twenty, twenty-one and twenty-
3 three after re-taking the goods, the buyer may recover from the
4 seller his actual damages, if any, and in no event less than one-
5 fourth of the sum of all payments which have been made under
6 the contract, with interest.

Waiver of Statutory Protection

Sec. 26. No act or agreement of buyer before or at the
2 time of the making of the contract, nor any agreement or state-
3 ment by the buyer in such contract, shall constitute a valid
4 waiver of the provisions of sections eighteen, nineteen, twenty,
5 twenty-two and twenty-five except that the contract may stipu-
6 late that on such default of the buyer as is provided for in sec-
7 tion sixteen, the seller may rescind the conditional sale either as
8 to all the goods or as to any part thereof for which a specific
9 price was fixed in the contract. If the contract thus provides
10 for rescission, the seller at his option may re-take such goods
11 without complying with or being bound by the provisions of
12 sections seventeen to twenty-five inclusive, as to the goods re-
13 taken, upon crediting the buyer with the full purchase price of
14 those goods. So much of this credit as is necessary to cancel
15 any indebtedness of the buyer to the seller shall be so applied,
16 and the seller shall repay to the buyer on demand any surplus
17 not so required.

Loss and Increase

Sec. 27. After the delivery of the goods to the buyer and prior
2 to the re-taking of them by the seller, the risk of injury and
3 loss shall rest upon the buyer. The increase of the goods shall
4 be subject to the same conditions as the original goods.

Act Prospective Only

Sec. 28. This act shall not apply to conditional sales made
2 prior to the time when it takes effect.

Rules for Cases Not Provided For

Sec. 29. In any case not provided for in this act the rules of law and equity, including the law merchant, and in particular those relating to the principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy or other invalidating cause, shall continue to apply to conditional sale.

Destruction of Contract or Copy After Validity Ceases

Sec. 30. When any conditional sale contract or copy, which is filed under and in pursuance of this act shall cease to be valid for a period of five years, then and in such case the clerk of the county court may remove from the files and destroy the said contract or copies so filed.

Uniformity of Interpretation

Sec. 31. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Short Title

Sec. 32. This act may be cited as the Uniform Conditional Sales Act.

Inconsistent Laws Repealed

Sec. 33. Except so far as they are applicable to conditional sales made prior to the time when this act takes effect, all acts and parts of acts inconsistent herewith shall be and hereby are repealed.

CHAPTER 65

(Senate Bill No. 188—By Mr. Hardman)

AN ACT to amend and re-enact section one, section four, section seven, section twelve, section thirteen, section fifteen, section twenty-four, section thirty and section thirty-one of chapter one hundred and sixteen of the acts of the legislature of one thousand nine hundred and twenty-one known as the forestry, game and fish laws, and relating to the protection and preservation of certain animals, birds and fishes, forests and streams.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

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| <p>Sec.</p> <p>1. Creating state game and fish commission; qualifications, appointment and terms of members; filling vacancies; confirmation by senate; removal; expenses but no salary; limitation of expenses; office and meetings; game protectors; salaries and assistants; general powers of commission; record reports to governor; chairman; public accounting department supervision of records; boards of commissioners; oaths of office.</p> <p>4. Alien cannot hunt, fish or carry firearms; definition of game animals and birds; hunting and fishing license required; how licenses are secured; fees; owner or agent may fish or hunt without license; non-resident licensees; fees for the same; form of license; possession of license and written permit required; tags non-transferable; penalty for violations; carrying uncased gun evidence of hunting; exhibit license on demand; license in actual possession; unlawful to possess unlawful paraphernalia; penalty for violation.</p> <p>12. Open season for deer; restrictions; penalty for violation; unlawful to hunt deer with dogs or lights; daylight hunting only; report of kill to commission; open season for wild turkey; daylight hunting; limit; report kill to commission; hunting wild turkeys prohibited until October 15, 1927; open season for ruffed grouse, quail, Virginia partridge, wild duck, goose or brant, woodcock, plover, ortolan, sandpiper, snipe, gray, black or fox squirrel, raccoon, opossum, muskrats, beaver, or otter; perpetual closed season for wood duck, and for beaver and otter at the discretion of commission; limit; unlawful to gig, snare or spear gamelish; penalty for violations; open season for rabbits; owner or tenant may kill rabbits; use of ferret prohibited, except by owner of land; open season for red fox, with exceptions; land owner or agent may kill red fox, and only owner may set spring bear</p> | <p>Sec.</p> <p>trap; penalties; limit for rabbits, except for land owner; ownership of ferrets prohibited, with exception.</p> <p>15. Length of game fish permitted to be caught; smaller fish to be returned to water; open season for jack salmon, jack fish, white salmon, wall-eyed pike, trout, landlock salmon, black bass, green bass, white bass, willow bass, perch, pickerel and pike; lawful to fish with rod in slack water back of federal dam; written permission of owner required, unless state river tributary; certain devices prohibited subject to permission of commission; penalties for violation.</p> <p>24. Penalties for violation of any part of entire act.</p> <p>30. Commission authorized to protect forests; appointment of local protectors; compensation; extreme authority in emergency; emergency help; compensation of same; penalty for failure to assist; expense of fire fighting charged to county; sworn statement; penalty for failure to extinguish fire started or used by self; penalty for negligently starting fire causing damage; penalty for wilfully setting fire to woods; railroad companies required to provide certain protection; reports of fires by railroad employees, and penalty for failure so to do; recovery of expenses by commission from persons responsible for fire; commission authorized to secure federal co-operation, ten thousand dollars being appropriated; may receive financial assistance from owners of lands; regulations concerning expenditure of moneys; owner to furnish fire patrol; failure so to do, causing commission to do it and assess cost against owner; collection; exceptions to provisions; residence sufficient in certain cases; degree of protection; definition of timber land; civil liability not relieved.</p> <p>31. Commission empowered to purchase game and fish reserves; control by commission; gifts; mineral and mining rights.</p> |
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Be it enacted by the Legislature of West Virginia:

That section one, section four, section seven, section twelve, section thirteen, section fifteen, section twenty-four, section thirty and section thirty-one of chapter one hundred and sixteen of the acts of the legislature of one thousand nine hundred and twenty-one be amended and re-enacted so as to read as follows:

Section 1. (a) The game and fish commission of West 2 Virginia, to be composed of three competent citizens of this

3 state who shall be appointed by the governor, no two of whom
4 shall be residents of the same senatorial district, is hereby
5 created. When this act takes effect, the governor shall ap-
6 point one member thereof for the term of three years from
7 the first day of July, one thousand nine hundred and twenty-
8 one, one member thereof for the term of two years from said
9 date and one member thereof for the term of one year from
10 said date, and thereafter the governor shall each year appoint
11 a member for the full term of three years as the terms of such
12 commissioners shall expire, except where appointment is made
13 to fill a vacancy. A vacancy in said commission shall be
14 filled by appointment by the governor for the unexpired term.
15 All appointments so made shall be with the advice and con-
16 sent of the senate, except where otherwise provided by law.

17 (b) The governor may remove any member for incom-
18 petency, neglect of duty, gross immorality or malfeasance in
19 office.

20 (c) The commissioners shall receive no salary or other
21 compensation for their services, but shall be allowed and paid
22 their actual necessary expenses in traveling and other per-
23 sonal expenses incurred in the performance of their duties;
24 *provided*, that in no case shall such total amount so allowed
25 for traveling and other personal expenses exceed in any one
26 year the sum of fifteen hundred dollars for all of said com-
27 missioners. No expense account shall be paid unless a state-
28 ment of the items thereof together with the time of expendi-
29 ture and the person or persons by whom expended shall be
30 certified by at least two of the members of the commission to
31 be a true statement of money actually expended, at the times
32 designated, for traveling and other personal expenses in the
33 performance of duty as such commissioners.

34 (d) The commission shall maintain an office at the capitol
35 of the state and shall hold regular meetings at such office on
36 the first Thursdays of January, April, July and October, and
37 may hold special meetings at such times and places in said
38 state as it may deem necessary. Such special meetings may be
39 called either by the chairman or by any two members, by
40 giving reasonable notice thereof to each member.

41 (e) The commission shall have power and authority to
42 appoint a chief game protector and additional other competent
43 men who shall be designated game protectors, each of whom

44 shall hold office at the pleasure of the commission, and the
45 commission may, at its discretion, with or without cause sum-
46 marily remove any person appointed by it and fill such vacancy
47 so created by removal. The commission shall fix the salary to
48 be paid to the chief game protector and the compensation of
49 said game protectors but the chief game protector shall not be
50 paid a yearly salary of more than three thousand six hundred
51 dollars, exclusive of his expenses. The commission may rent
52 an office adequate for its purposes, furnish the same, secure
53 necessary supplies for the keeping of its records and the con-
54 duct of its business, and may employ, with the right of re-
55 moval aforesaid, one person to act as clerk at said office, at a
56 salary of not more than two thousand four hundred dollars
57 a year, and a stenographer at not more than fifteen hundred
58 dollars per year.

59 (f) The commission shall, in addition to the duties here-
60 inafter specifically prescribed, have entire charge, control and
61 supervision of the fish, frogs, wild animals, and the wild birds
62 and fowl of the state, the conduct, control, operation and man-
63 agement of all state wild birds, wild fowl or wild game farms,
64 reserves and refuges, and fish hatcheries and reserves and
65 refuges and all other fish, frog, wild game, wild bird and
66 fowl, plants and places now or hereafter to be established in
67 the state for the propagation and protection of fish, frogs,
68 wild game and wild birds and fowl; supervise and direct the
69 granting and the cancellation or revocation of all game and
70 fish, hunting or other licenses, provided by this chapter to be
71 granted, and the payment, collection, and expenditure of all
72 moneys, derived from said licenses, and otherwise collected
73 or appropriated for the operation of the game and fish depart-
74 ment; supervise and direct and have charge of the enforce-
75 ment of all laws enacted for the propagation, preservation,
76 conservation, protection and distribution, or in relation to the
77 pursuit, hunting, catching, capturing and killing of the fish,
78 frogs, the wild animals, the wild birds, and the wild fowl of
79 the state; and do and perform all acts and things expressly
80 provided or implied to be done by the commission under the
81 provisions of this act or by law.

82 (g) The commission shall keep records of all its acts and
83 doings in relation to its duties and it shall preserve the same
84 at its office, and shall make report to the governor on not

85 later than the first day of February of each year for the pre-
86 ceding year, or oftener if required by the governor, of the
87 conduct of its affairs during said current year, including a
88 statement of receipts and disbursements and such recommenda-
89 tions as the commission may desire to make in relation to the
90 matters within its duties and purposes. The commission shall
91 choose yearly at the first meeting held after the thirty-first
92 day of May, a chairman who shall be such for one year from
93 the said thirty-first day of May of each year, or until his suc-
94 cessor shall be elected and qualified in his stead.

95 (h) The commission shall keep its records and books in
96 the manner to be prescribed by the public accounting depart-
97 ment of the state, and shall submit the same to said accounting
98 department for inspection at such time as said accounting de-
99 partment may require.

100 (i) The commissioners shall each give bond in the sum of
101 two thousand dollars, and in case surety companies execute
102 the same the premiums therefor shall be paid out of the funds
103 of the commission, for the faithful performance and discharge
104 of their duties as commissioners, and the commissioners, chief
105 game protector and the game protectors shall each give, sign
106 and execute a written oath of office in form to be prescribed
107 by the attorney general of this state before entering upon the
108 performance of their duties. The written oath of office may
109 be administered to the chief game protector and game protec-
110 tors by any commissioner or any other person authorized by
111 law to administer oaths, and all said written obligations shall
112 be returned to and filed with the commission.

Sec. 4. (a) No person not a citizen of the United States
2 of America shall at any time hunt, pursue, kill or catch any
3 wild game animals or wild game birds or wild game fowl in
4 this state, or have in his possession fire arms of any kind for
5 such or any of said purposes, or ~~use for, capture, catch or kill~~
6 any fish, frogs or turtles, in this state.

7-8 (b) For the purpose of this chapter the following are game
9 animals: elk, deer, rabbit, skunk or polecat, gray and fox
10 squirrels, raccoon, opossum, beaver and otter. The fol-
11 lowing are game birds or game fowl: the anatadae, commonly
12 known as ducks, geese, swan and brant; the rallidae, com-
13 monly known as mud hens, rails, coots and gallinules; the
14 limicolae, commonly known as shore birds, plover, snipes,

15-16 woodcocks, tatlers, curlews, ortolan, sand piper; and the
17 gallinae, commonly known as wild turkey, ruffed grouse or
18 pheasant, quail or bob-white.

19 (c) No person above the age of fifteen years, who is a citizen
20 of the United States, shall, at any time, hunt, pursue, kill or
21 catch any wild game animals, or wild game birds or wild
22 game fowl, in this state, or fish for, capture, catch or kill any
23 fish or frogs of any kind whatsoever, without first having se-
24 cured a license so to do as herein provided, and then only
25 during the respective periods when it shall be made lawful
26 to hunt such wild game animals and wild game birds and
27 wild game fowl, or to fish for, capture, catch or kill such fish
28 or frogs. Such license may be procured in the following man-
29-40 ner. The applicant, who is a resident of this state
41 shall go before the clerk of the county court of the
42 county of his residence and present such statement from
43 the game and fish commission or the chief game protector, and
44 in ink fill out and sign his name to a blank application, which
45 blank application shall be prepared by said commission and
46 furnished to said clerk by it, and which shall state, among
47 other things to be provided therein by said commission, the
48 citizenship, name, age, occupation or profession, weight, height,
49 place of county resident, color of hair, eyes and complexion
50 of the applicant, and said applicant shall in person make oath
51 thereto before, and file said application with said clerk. If
52 the applicant be a non-resident of this state, he shall make,
53 sign, swear to and file the like form of application, but such
53 application may be signed and sworn to by him before any
54 person authorized in the state of his residence to administer
55 oaths, but said officer taking such affidavit shall affix his seal
56 thereto, and such application may be filed with, and ~~such~~
57 license may be granted by ~~any clerk of~~ the county court of
58 ~~any county in~~ this state to whom such application is made.
59 If applicant is a *bona fide* resident and citizen of this state,
60 he may fill out said application and swear to the same before
61 some one authorized to administer oaths and send the same to
62 the county clerk of the county of his residence together with
63 the amount of license tax herein prescribed and sufficient
64 postage for the return of the license, and such clerk shall
65 thereupon issue and send him such license. Before any such
66 license shall be issued to a citizen who is a resident of the

67 state of West Virginia, said application shall be made and
68 filed as aforesaid and the applicant shall pay to said clerk so
69 issuing the same the sum of one dollar, and before any such
70 license shall be issued to a citizen who is a non-resident of
71 the state of West Virginia said application shall be made and
72 filed as aforesaid and said applicant shall pay to said clerk
73 the sum of fifteen dollars; *provided*, that a *bona fide* land
74 owner of this state, residing herein, or his resident children,
75 or his *bona fide* resident tenant, may hunt, pursue, kill or
76 catch any of the game animals or game birds and fowl or fish
77 for, capture or kill any of the fish or frogs of this state on his
78 land, during the hunting or fishing seasons therefor but
79 under the regulations and laws herein expressly made for
80 hunting and fishing, without obtaining a license so to do;
81 *provided, however*, said land shall not have been designated
82 and made, in manner provided by law, a state game refuge or
83 preserve. Nothing herein shall be construed to permit any
84 resident or non-resident member of any club or organization
85 or association of persons owning or leasing a game or fish
86 preserve in this state to hunt or fish without having secured
87 such license therefor; *provided, however*, that a license to such
88 non-resident applicant for fishing may be issued upon the
89 payment of five dollars license fee; and *provided, further*, that
90 such non-resident licensee may take with him personally, when
91 leaving the state, any game or game birds that he has law-
92 fully taken or killed, not exceeding, during the season, the
93 number that any person may lawfully take or kill in any one
94 day; and *provided, further*, that the non-resident hunting
95-99 license fee shall be fifteen dollars.

100 (d) The clerk shall issue and deliver to the applicant, upon
101 the granting of such license, a form of license prepared by
102 the commission, which shall be signed by said clerk and be
103 under the seal of the county court of which he is a clerk, and
104 which license shall bear a number according to the serial order
105 in which it was issued. The clerk shall, at the same time,
106 deliver to the applicant a tag which shall be prepared and
107 delivered to the clerk by the commission, bearing on it the
108 serial number and county of said license and the name and
109 residence of the applicant, and containing the words "resi-
110 dent" or "non-resident" as the case may be. Said clerks

111 shall keep an accurate list of all licenses issued by them and of
112-114 moneys received therefor.

115 (e) No person to whom such license is granted shall be
116 entitled to hunt, pursue, kill or catch any wild game animals
117 or wild game birds or wild game fowl, or fish for, capture, or
118 kill any fish or frogs, unless, at the time thereof, he shall have
119 such license in his actual possession, together with a written
120 permit from the land owner or lessee of said land for permis-
121 sion to hunt thereon, and he shall, on demand, exhibit the
122 same to any officer of this state, or to the owner, tenant or lessee
123 of any land on which he is hunting or fishing.

123-a (f) Such license shall be issued only until the last day of
123-b the calendar year in which the same is issued, and shall permit
124 the holder thereof, in the year in which issued and then only
125 during the times in such year when it is made lawful so to
126 do, to hunt and fish in any of the counties of the state.

127 (g) No person securing such license and tag shall transfer
128 the same to any other person or permit any other person to
129 have or use the same. No person shall have, use or exhibit
130 any license or tag which has not been issued to him in manner
131 provided by law.

132 (h) If any person shall violate any of the provisions of
133 this section, he shall be deemed guilty of a misdemeanor; and
134 upon conviction, shall be fined not less than five and not
135 more than two hundred dollars, or may be confined in jail
136 not less than ten nor more than sixty days, for each offense, or,
137 at the discretion of the court may be both fined and imprisoned
138 within the limitations aforesaid.

Sec. 7. (a) No person shall carry any uncased gun in any
2 of the fields or woods of this state, unless he has such properly
3 issued and valid license, or unless such person be the *bona fide*
4 owner of such field or woods, or his child, tenant or lessee, and
5 the carrying of such uncased gun in any of the fields or woods
6 of this state by any person not having a license as provided as
7 aforesaid, or by any person not then such owner, tenant or
8 lessee of such field or woods, or a child of such owner, tenant,
9 or lessee, shall be deemed *prima facie* evidence that the person
10 so carrying such uncased gun is hunting game animals or game
11 birds or fowl.

12 (b) Any person having in his possession in the fields or
13 woods in or about the streams or waters of this state any gun

14 or other hunting paraphernalia or any fishing rod or parapher-
15 nalia, except it be such owner of such field, woods, stream or
16 water, or the child, tenant or lessee of such owner, shall, upon
17 the demand of any officer mentioned in this act, or by the owner,
18 tenant, lessee, or the agent of the owner of such fields or woods,
19 produce and exhibit his license to such officer or person for
20 inspection, and shall give to said officer or person his correct
21 name and address.

22 (c) No person, to whom such license is issued, shall hunt,
23 pursue, catch or kill game animals, game birds or fowls, or
24 fish for, catch, capture or kill fish or frogs in this state, unless
25 at the time he shall have such license in his actual possession
26 and upon his person.

27 (d) It shall be unlawful for any person to have in his posses-
28 sion or about his premises any hunting or fishing paraphernalia,
29 such as fish traps, nets and seines over legal size, which can not
30 be lawfully used during the open season for hunting or fishing,
31 and it shall be obligatory for any game protector or conservator
32 of the peace, at any time, to remove and destroy such hunting
33 or fishing paraphernalia, wherever found in this state, and the
34 person or persons claiming ownership, or possession thereof
35 shall have no recourse at law against the party destroying the
36 same.

37 (e) If any person shall violate any of the provisions of this
38 section, he shall be guilty of a misdemeanor, and upon convic-
39 tion thereof, shall be fined not less than five and not more
40 than one hundred dollars, or be confined in jail not less than
41 twenty and not more than one hundred days, for each offense,
42 or both fine and imprisonment within the limitations aforesaid.

Sec. 12. (a) No person shall hunt, capture, or kill any deer
2 in this state at any time before the first day of November one
3 thousand nine hundred and twenty-seven, after which time
4 it shall be lawful to hunt ~~capture, kill any buck deer with~~
5 ~~one or both horns~~ branched, from the first day of November
6 to the tenth day of November, inclusive, of each year; *provided,*
7 *however,* that the state game and fish commission may at any
8 time open or close the season against the killing of all deer in
9 manner and form as provided in this act; *provided, further,*
10 that the owner of any deer which shall be kept in any park or
11 field sufficiently enclosed to reasonably prevent their escape
12 therefrom shall have the right to kill any such deer as his own:

13 *provided, further,* that any such owner may pursue, recapture,
14 and kill any of his deer that may escape from his enclosure.
15 No person shall kill more than one deer in any one season of
16 each year; nor shall any person at any time kill any fawn, doe,
17 or any other deer than bucks with one or both horns branched,
18 or have the fresh skin of any doe or fawn in his possession.
19 Any person violating this sub-section shall be guilty of a mis-
20 demeanor and upon conviction shall be fined not less than one
21 hundred dollars nor more than three hundred dollars,
22 confined in the county jail not less than thirty nor more than
23 sixty days, or both fined and imprisoned within the limitations
24 aforesaid.

25 (b) No person or persons shall chase or hunt elk or deer
26 with dogs in this state at any time, or permit his dog or dogs to
27 hunt or chase elk or deer; nor shall any person kill any deer
28 which has been chased by dogs. It shall be unlawful for any
29 person at any time to hunt any game animals at night by the
30 use of a spot or jack light, or any light of like kind, except that
31 game animals which take refuge in trees may be so hunted. It
32 shall be unlawful for any one to destroy or cut down any tree in
33 which animals den or take refuge, for the purpose merely of
34 taking such animals.

35 (c) No person shall hunt, pursue, catch, or kill any deer
36 between nightfall of one day and daylight of the next day. Each
37 person killing a deer in this state in any season when it is law-
38 ful so to do, shall within twenty days thereafter inform the
39 commission in writing of such fact, and shall also specify in
40 writing the date and place of such killing, the person by whom
41 killed, the persons hunting with him at such time, the length and
42 branching of its horns or antlers, and what was done with said
43 deer.

44 (d) No person shall hunt, pursue, capture, wound or kill
45 any wild turkey between the first day of December of any one
46 year and the fifteenth day of October of the following year,
47 nor shall any person during said period when it shall be lawful
48 to hunt, pursue, catch and kill wild turkeys, engage therein
49 between nightfall of one day and daylight of the next day, nor
50 shall any person kill more than one wild turkey in any one day,
51 or more than four wild turkeys in any one open season. In the
52 month of December of each year, it shall be the duty of each

53 person who has killed a wild turkey in this state to make report
54 of the number killed by him, during the open season of that
55 year, to the commission, designating whether the same were
56 male or female. No person shall hunt, pursue, capture, wound
57 or kill any wild turkey until after the fifteenth day of October,
58 one thousand nine hundred and twenty-seven.

59 (e) It shall be unlawful for any person to hunt, pursue,
60 catch, capture or kill any ruffed grouse between the first day
61 of December of one year and the fifteenth day of October of
62 the following year, or any quail or Virginia partridge between
63 the first day of December of one year and the first day of
64 November of the following year. Nor shall any person kill
65 more than ten quail or four ruffed grouse in any one day, nor
66 more than sixty quail or twenty ruffed grouse in any one year.
67 And it shall be unlawful for any person, prior to the first day of
68 November in the year one thousand nine hundred and twenty-
69 nine, to pursue, catch, kill or injure any quail or Virginia
70 partridge in the counties of Roane and Marshall. No person
71 shall hunt, pursue, catch, capture or kill any wild duck, goose
72 or brant, woodcock, plover, ortolan, sandpiper or snipe between
73 the first day of January and the fifteenth day of November of
74 the following year; *provided*, that the wood duck shall not be
75 killed at any time within this state. No persons shall hunt,
76 pursue, catch, capture or kill any gray, black or fox squirrel
77 between the first day of December of any year and the twenty-
78 eighth day of September of the following year. No person shall
79 kill more than eight squirrels in any one day or more than
80 sixty in any one open season, nor more than twenty-five ducks,
81 eight geese and eight brant, in any one day.

82 (f) No person shall hunt, capture, gig, catch or kill frogs
83 between the first day of April and the first day of June of any
84 year. It shall also be unlawful for any person at any time
85 to kill or catch any game fish by gigging, snaring, spearing or
86 grabbing, at any time; or any fish during the closed season on
87 game fish.

88 (g) No person shall hunt, capture or kill any raccoon or
89 opossum from the first day of February of any year to the
90 thirty-first day of October of the same year or any muskrats
91 from the first day of March of any year to the thirty-first day
92 of October of the same year, or any beaver or otter at any time;

93 *provided*, the state game and fish commission may at its dis-
94 cretion establish an open season for the killing and taking of
95 beaver and otter.

96 (h) Any one violating any provision of sub-section (b), (c),
97 (d), (e), (f), or (g) of this section shall be guilty of a mis-
98 demeanor and upon conviction shall be fined not less than
99 twenty nor more than one hundred dollars, or confined in jail
100 not less than ten nor more than one hundred days, for each
101 offense, or by both fine and imprisonment within the limitations
102 aforesaid. The unlawful killing or capturing of each game
103 animal, game bird or game fowl shall be deemed a separate
104 offense.

Sec. 13. (a) It shall be unlawful for any person to hunt,
2 catch, wound or kill any rabbit between the thirty-first day of
3 December and the first day of October following; *provided*, that
4 it shall be lawful for any person, or the children
5 of any such person, to hunt, catch or kill any rabbit upon his
6 own land or any land of which he may be a tenant at any time.
7 No person shall at any time hunt, pursue, catch or kill rabbits
8 with ferrets, excepting that the owner of any land, or his
9 children, or his lessee or agent, may lawfully hunt and kill
10 rabbits with a ferret on said land when it is necessary so to
11 do for the protection of the said land or anything thereon. It
12 shall be unlawful for any person to catch, kill or injure by
13 means of a gun, snare, trap, or poison any red fox, between the
14 first day of February and the first day of December following,
15 except in the following named counties: Pocahontas, Doddridge,
16 Monongalia, Marion, Randolph, Pendleton, Monroe, Jefferson,
17 Hardy, Wayne, Gilmer, Hancock, Lincoln, Hampshire, Braxton,
18 Raleigh, Webster, Preston, Roane, Jackson, Mercer, Nicholas,
19 Greenbrier, Marshall, Berkeley, Tyler, Boone, Logan, Clay, Bar-
20 bour, Mineral, McDowell, Tucker, Grant, Ohio and Calhoun;
21 *provided, however*, that it shall be lawful for any person
22 at any time or by any means to catch, kill or pursue any red
23 fox upon his own land, or on any lands upon which he may be
24 an actual *bona fide* tenant or resident, and also for the agent of
25 the owner or tenant of such land to so hunt and kill any red
26 fox thereon by the direction of such owner or tenant. It shall
27 be unlawful for any person at any time to set or maintain any
28 snare upon the improved or enclosed lands of another without
29 the express permission of the owner or tenant of such lands,

30 or at any time to set or maintain any steel or spring bear trap
31 upon any lands not his own. If any person violate any of the
32 provisions of this section he shall be guilty of a misdemeanor,
33 and upon conviction thereof shall be punished by a fine of
34 not less than ten dollars nor more than one hundred dollars or
35 by confinement in jail of not less than ten days nor more than
36-39 one hundred days for each offense, or by both fine and im-
40 prisonment within the limitations aforesaid.

41 (b) It shall be unlawful for any person to kill more than
42 five rabbits in one day; *provided*, that this shall not apply to
43 persons killing rabbits on their own premises.

44 (c) It shall be unlawful for any person to hunt with, own,
45 or have in his possession any ferret, except for the purposes
46 permitted by this section.

Sec. 15. (a) It shall be unlawful for any person to catch
2 and keep, or not return to the water immediately after catching,
3 any jack salmon, commonly called jack fish, less than ten inches
4 in length or any white salmon, or wall-eyed pike less
5 than fourteen inches in length, or any pike or pickerel
6 of less than ten inches in length, or any bass or perch less than
6-a eight inches in length, or any trout less than six inches
7 in length. Fish less than the length prescribed herein shall be
8 returned to the water immediately after being caught with as
9 little injury as possible. The measurement of the fish shall
10 be taken from the end of the nose to the center fork of the tail.

11 (b) It shall be unlawful to fish for, catch, take, kill or
12 destroy any jack salmon, jack fish, white salmon or wall-eyed pike
13 in any manner between the first day of April and the thirtieth
14 day of May of each year; or any trout or landlock salmon in any
15 manner between the first day of August and the first day of
16 May following; or any black bass, green bass, white bass, willow
17 bass or perch, pickerel or pike between the first day of December
18 and the first day of July of the following year; *provided, how-*
19 *ever*, that in navigable slack water created by dams maintained
20 by the federal government, it shall be lawful to take (but only
21 with rod, line and hook or hooks with natural or artificial lures)
22 any bass mentioned in this section between the thirtieth day of
23 May and the first day of December of the same year. It shall
24 be unlawful for any person to catch more than ten bass or
25 twenty-five trout in one day.

25-a (c) It shall be unlawful for any person to catch or destroy
25-b fish in any dam or pond or stream on the enclosed land of any
25-c person, except with the written consent of the owner of such
25-d dam or pond or stream, unless such dam or pool or stream be
25-e a part of the rivers of this state.

26 (d) It shall be unlawful for any person to kill or catch or
27 attempt to kill or catch any fish in this state, or in any water
28 subject to the jurisdiction of this state, at any time, by means
29 of seines, nets or traps, or devices of like nature, unless written
30 consent shall have been given by the commission for the use
31 of such seines as hereinafter provided; or by draining water
32 out of any pool, pond, or any stream known to contain trout
33 or bass with the intent to take or injure the fish therein; or by
34 the use of dynamite, or any like explosive or other explosive
35 mixture, or any poisonous drug or substance, or by the use of
36 electricity or lime; or by the use of a gun, rifle, pistol or any oth-
37 er like weapon; or by any other means whatsoever except by
38 rod, line and hook or hooks with natural or artificial lures;
39 *provided*, that any person may employ a seine not more than
40 eight feet in length for the purpose of securing minnows other
41 than salmon, bass, shad, pike and trout, for use in angling;
42 and *provided*, that the commission may at any time, catch fish,
43 with nets, seines or otherwise for the purpose of propagation
44 and protection of the fish of this state.

45 (e) Any person violating any provision of this section
46 shall be guilty of a misdemeanor, and upon conviction thereof
47 shall be fined not less than ten nor more than one hundred
48 dollars, and may, at the discretion of the court or justice try-
49 ing the case, be confined in the county jail not exceeding thirty
50 days for each offense, or both fine and imprisonment within
51 the limitations aforesaid. *Provided*, that for killing fish by
52 dynamite or other explosives, or poisons, the punishment shall
53 be as follows: Any person convicted thereof shall be confined
54 in the county jail for a period of not less than two months, nor
55 more than twelve months, and shall, at the discretion of the
56 court, be fined not less than twenty-five dollars nor more than
57 one hundred dollars; but upon conviction of the same person
58 for the second offense in this state, he shall be guilty of a felony
59 and be confined in the penitentiary not less than one nor more
60 than three years.

Sec. 24. (a) Any person violating any of the provisions of sections twenty-two and twenty-three shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars or by confinement in jail not less than ten nor more than one hundred days, or both fine and imprisonment within the limitations aforesaid. Any person violating any of the other provisions of this entire act as to which no other penalties are prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than two hundred dollars, or by confinement in jail not less than ten or more than one hundred days, or by both fine and imprisonment within the limitations aforesaid; and in the case of violation by a corporation every officer or agent directing or engaged in the violation shall be guilty and punished as aforesaid.

Sec. 30. (a) The commission is vested with authority and power to protect the forest against injury or destruction by fire, and for which purposes they may appoint local protectors for each county, with pay at the rate of three dollars and fifty cents per day when actually engaged in fighting fire, and it is made the duty of the commission, the chief game protector and the game protectors, upon receiving notice of any such forest fire to employ all the necessary means to confine or extinguish the same. For this purpose authority is given to destroy fences, plough lands or in cases of extreme emergency, to set back-fires. The chief game protector and game protectors may, under the general supervision of the commission, in case of emergencies, summon or employ persons to assist in fighting fires, who shall be paid at the rate of three dollars a day for the actual time so employed in fighting such fires. Any person who shall fail or refuse to assist in the fighting of such fires shall, unless such failure is due to physical inability, be guilty of a misdemeanor, and upon conviction be fined not less than ten nor more than twenty dollars for each offense.

(b) All services rendered at forest fires except that rendered by a chief protector or game protectors, shall be charged against the county in which the fire was, and each game protector shall render to the county court, within twenty days

25 after such fire, and also to the commission, a sworn statement
26 of the time used in fighting such fires with the name or names
27 of all persons who were summoned and assisted thereat and
28 the amount of money due each therefor.

29 (c) Whoever by himself, or by his servants, agents or
30 guide, or as the servant, agent or guide of any other person,
31 shall build any fire, or use an abandoned fire in a field, public
32 or private road, or adjacent to, or in any woods or forest in
33 this state, shall, before leaving such fire, totally extinguish
34 the same, and upon failure to do so, such person, or persons,
35 shall be deemed guilty of a misdemeanor, and on conviction
35-a thereof, shall be fined not less than twenty-five dollars nor
36 more than one hundred dollars and costs of the prosecution,
37 and upon default in paying said fine and costs shall be con-
38 fined in the county jail not more than ninety days unless said
39 fine and costs be sooner paid. If any person, or persons,
40 negligently set on fire any woods, fields or lands within this
41 state, so as thereby to occasion loss, damage or injury to any
42 other person, he shall be guilty of a misdemeanor and on
43 conviction thereof, shall be fined not less than fifty dollars
44 nor more than five hundred dollars, and in the discretion of
45 the justice or court trying the case, be imprisoned in the
46 county jail not to exceed one year, and upon default in pay-
47 ment of the fine and costs, he shall be imprisoned in the county
48 jail not to exceed six months, and if any person or persons
49 wilfully set on fire any woods, fields or lands within the state,
50 so as thereby to occasion damage or injury to any other
51 person, he shall be guilty of a felony and on conviction thereof,
52 shall be confined in the penitentiary not less than one nor more
53 than two years.

54 (d) Every railroad company shall on such part of its road
55 as passes through forest lands or lands subject to fires from
56 any cause, cut and remove from its right of way along such
57 lands, at least twice a year, all grass, brush and other inflam-
58 mable materials and employ in seasons of drought and before
59 vegetation has revived in the spring, sufficient trackmen to
60 promptly put out fires on its right of way; provide locomotives
61 thereon with netting of steel or iron so constructed as to give
62 the best practical protection against the escape of fire and
63 sparks from the smoke stacks thereof, and against

64 the escape of fire from ash pans and furnaces which
65 shall be used on such locomotives.

66 No railroad company or employee thereof, shall deposit fire
67 coals or ashes on its track or right of way near such lands. In
68 case of fire on its own or neighboring lands, the railroad com-
69 pany shall use all practicable means to put it out. Engineers,
70 conductors or trainmen discovering or knowing of fire in fences
71 or other material along or near the right of way of the rail-
72 road in such lands, shall report the same at the first station to
73 the station agent, and such station agent shall as soon as practi-
74 cable notify the nearest game protector and use all necessary
75 means to extinguish the same. And any officer or employee of a
76 railroad company violating any provisions of this section shall
77 be guilty of a misdemeanor and upon conviction thereof, shall
78 be fined a sum not less than twenty nor more than two hundred
79 dollars.

79a (e) The commission shall in the name of the county in
80 which any forest fire has occurred, and which has been extin-
81 guished, or suppressed by its efforts, recover from the person or
82 persons, firm or corporation negligently giving origin to such
83 fire, the amount so expended in extinguishing said fire and the
84 costs thereof, and the same shall not bar the rights of damage
85 between the parties thereto.

86 The commission may do all things required to meet the con-
87 ditions and requirements of the federal government in securing
88 federal co-operation under the provisions of the Weeks law
89 and the Clark-McNary law for the purpose of preventing and
90 controlling forest fires and for the purpose of aid and co-opera-
91 tion with the federal government in this respect, the sum of
92 ten thousand dollars is hereby appropriated.

93 The commission may co-operate with the owners of forest
94 lands and receive financial assistance from them for the pur-
95 pose aforesaid and do any and all things necessary therefor,
96 including the establishment and maintenance of patrol routes
97 and lookout stations; *provided*, that the commission shall ex-
98 pend therefor only such moneys as shall be appropriated for
99 that purpose by the state and such moneys as may be contrib-
100 uted therefor by the private owners and such part of the funds
101-4 derived from amounts paid for the game and fish licenses as
105 is more than twenty-five per cent of such year's license. *Pro-*
106 *vided, further*, that the commission shall, upon the written re-

107 quest of twenty or more taxpayers of any county, expend in
108 that county at least twenty per cent of all money received from
109 such county in hunting and fishing license fees for the purpose
110 of re-stocking and propagating fish or game.

110-a (f) Every owner of timber land in the state of West
110-b Virginia shall furnish or provide a sufficient fire-patrol dur-
110-c ing the season of the year when there is danger of forest
110-d fires, which patrol shall meet with the approval of the state
110-e game and fish commission.

111 (g) If the owner of any forest land fails to properly patrol
112 his or their lands, then the game and fish commission may cause
113 the same to be patrolled and charge the cost thereof against
114 such owner; *provided*, the aggregate amount so charged does
115 not exceed one cent per acre per year; and if the amount so
116 charged against such owner as cost and expense of such
117 patrol is not paid upon presentation of a bill therefor, then it
118 shall be the duty of the prosecuting attorney of the county in
119 which said land or a greater part thereof is situated, at the in-
120 stance of the game and fish commission or some one of its
121 agents, to institute, in the name of the state of West Virginia,
122 an action for the recovery thereof. All moneys collected from
123 owners of forest lands, either by suit or voluntary payment,
124 shall be paid into the state treasury to the credit of the game
125 and fish fund. But the foregoing provisions shall not apply to
125-a corporations, firms or individuals who are members of and
125-b contributing to the various fire protective associations of
125-c the state of West Virginia, now in existence.

126 (h) *Provided*, that actual *bona fide* residence, by the
127 owner or lessor of three hundred and sixty acres or less,
128 on or within one and one-half miles of said tract
129 shall be deemed to constitute reasonable and adequate
130 protection for such tract, but such residence shall not
131 relieve the owner, his agents or employees from re-
132 sponsibility for the control and suppression of fires
133 occurring on such tract or entitle such owner to com-
134 pensation from the county for the time spent by him,
135 his agents or employees in controlling or suppressing
136-38 any fire that threatens or occurs thereon.

139 (i) *Provided, also*, that the degree of protection required
140 on a given tract of land shall not exceed that required on ad-
141 joining tracts in the same protective unit and that in no case

142 shall the total cost of protection assessed against the land by
143 the state exceed one cent per acre per annum.

144 (j) For the purpose of this act, any land shall be consid-
145 ered timber land which has enough timber standing or down
146 to constitute, in the judgment of the state game and fish
147 commission, a fire menace to itself or adjoining lands, *pro-*
148 *vided, however*, that nothing in this section contained shall be
149 construed to include lands under cultivation or in grass; and
150 *provided, further*, that nothing contained herein shall be con-
151 strued so as to include within the provisions of this section
152 any land which is an isolated fire risk unless a forest fire
153 thereon would imperil the lands of any adjoining land owner
154 or land owners.

155 (k) Nothing in this act shall be construed to relieve the
156 owner, lessee or user of any land from civil liability for dam-
157 age resulting from any fire for which their agents or employees
158 may be responsible.

Sec. 31. (a) The commission, by and with the consent of
2 the governor, shall have the power and right to purchase, in
3 the name of the state, lands suitable for forest culture or game
4 and fish reserves, out of any unused funds in the hands of the
5 commission under this chapter, but such purchases may be made
6 of not less than one-third of the purchase price to be paid
7 down at the time of the conveyance and the residue in not less
8 than one and two years after date, and when so purchased the
9 commission may maintain the same as a forest, game and fish
10 reserve and make such regulations for the upkeep, protection
11 and operation of the same, and propagation and distribution of
12 forest trees as said commission may deem necessary, and for the
13 purpose of establishing such forest, game and fish reserves the
14 commission may take any gift of any land. In the case of gifts
15 or purchases the absolute fee simple shall pass to the state ex-
16 cept for the reservation of minerals and the mining rights to
17 remove such minerals.

CHAPTER 66

(Senate Bill No. 200—By Mr. Hugus)

AN ACT making the auditor of this state commissioner of securi-
ties; regulating the sale and disposition of stocks, bonds, notes,
contracts or other securities, and certain real estate without

the state sold or offered for sale within the state; exempting certain securities from the provisions of this act; providing for the registration of certain securities; providing for the registration of dealers and salesmen; providing penalties for the violation of the provisions of this act; and repealing chapter fifty-five-b of Barnes' code of one thousand nine hundred and twenty-three, the same being chapter eighteen of the acts of the legislature of one thousand nine hundred and fifteen, as amended by chapter ninety-nine of the acts of the legislature of one thousand nine hundred and twenty-one, relating to the prevention of fraud in the sale and disposition of certain securities and certain real estate, and all other acts and parts of acts inconsistent herewith.

[Passed April 23, 1925; in effect July 1, 1925. Approved by the Governor.]

Sec.	Sec.
1. The "Securities Law."	examined by commissioner.
2. Auditor shall be the securities commissioner; employ assistants.	12. Refusal of, or cancellation of registration; notice and hearing; causes.
3. Definitions.	13. Burden of proof.
4. Classes of securities applicable to.	14. Patent right, copyright, trademark; process; lease; formulae or good will, or for promotion fees, or expenses fully set forth, delivered in escrow.
5. Certain securities not subject to this act, unless expressly provided.	15. Fraudulent practices or fictitious schemes; duty of commissioner; action in circuit court of Kanawha county.
6. Registration.	16. Sales voidable; when; action in court; time limit; refund to purchaser, with interest; how computed.
7. Classes of securities entitled to registration.	17. Appeals; by whom taken; procedure.
8. Commissioner to receive and act upon applications to register by qualification; prescribe forms; require applications to be submitted in writing; applicant to furnish information to commissioner.	18. Fees collected and turned in to the state treasury; re-appropriated to the commissioner to be expended in carrying this act into effect.
9. Registration by notification and by qualification by non-domiciled issuers.	19. Penalties for fraud or attempted fraud; form of indictment.
10. Revoke registration; notice of hearing; cause for.	20. Penalties for making false statement with intent to fraud.
11. Dealers or salesmen shall register; file application for registration; bond; good character; partners and executive officers of corporations may register as dealers; names and addresses of dealers to be kept by commissioner; changes in registration; dealer notify commissioner of intention to offer issue of security, registered or to be registered; dealer's method of doing business to be	21. <i>Prima facie</i> evidence of knowledge of representations.
	22. Penalties for failure to comply with this act.
	23. General violations.
	24. Provisions of this act cumulative.

Be it enacted by the Legislature of West Virginia:

Section 1. This act shall be known as the West Virginia
2 securities law.

Sec. 2. The auditor of this state is hereby made, and
2 shall be, the commissioner of securities of this state and the
3 administration of the provisions of this act shall be vested in
4 him. He shall have power and authority to employ such
5 assistants as are necessary for the administration of this act.

Sec. 3. When used in this act the following terms shall, unless the text otherwise indicates, have the following respective meanings:

(1) "Security" shall include any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation, certificate of interest in a profit-sharing agreement, certificate of interest in a syndicate agreement, certificate of interest in an oil, gas or mining lease, collateral trust certificate, pre-organization certificate, pre-organization subscription, any share, investment contract, or beneficial interest in or title to property, profits or earnings or any other instrument commonly known as a security.

(2) "Person" shall include a natural person, a corporation created under the laws of this or any other state, country, sovereignty, or political subdivision thereof, a partnership, an association, a syndicate, a joint stock company, a trust and any unincorporated organization. As used herein the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament, or by a court of law or equity, or any public charitable trust.

(3) "Sale" or "sell" shall include every disposition, or attempt to dispose, of a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. "Sale" or "sell" shall also include an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a subscription or an offer to sell, directly or by an agent, or by a circular, letter, advertisement or otherwise.

(4) "Dealer" shall include every person other than a salesman who in this state engages either for all or part of his time directly or through an agent in the business of selling any securities issued by another person or purchasing or otherwise acquiring such securities from another for the purpose of reselling them or of offering them for sale to the public, or offering, buying, selling or otherwise dealing or trading in securities as agent or principal for a commission or at a profit, or who deals in futures or differences in market

41 quotations of prices or values of any securities or accepts
42 margins on purchases or sales or pretended purchases or sales
43 of such securities; *provided*, that the word "dealer" shall not
44 include a person having no place of business in this state who
45 sells or offers to sell securities exclusively to brokers or dealers
46 actually engaged in buying and selling securities as a business.

47 (5) "Issuer" shall mean and include every person who
48 proposes to issue, has issued, or shall hereafter issue any secu-
49 rity. Any natural person who acts as a promoter for and
50 on behalf of a corporation, trust or unincorporated associa-
51 tion or partnership of any kind to be formed shall be deemed
52 to be an issuer.

53 (6) "Salesman" shall include every natural person. other
54 than a dealer, employed or appointed or authorized by a dealer,
55 or issuer to sell securities in any manner in this state. The
56 partners of a partnership and the executive officers of a cor-
57 poration or other association registered as a dealer shall not
58 be salesmen within the meaning of this definition.

59 (7) "Agent" shall mean salesman as hereinabove defined.

60 (8) "Commissioner" shall mean the commissioner of secu-
61 rities.

Sec. 4. Except as hereinafter otherwise expressly provided,
2 the provisions of this act shall not apply to any of the follow-
3 ing classes of securities:

4 (a) Any security issued or guaranteed by the United States
5 or any territory or insular possession thereof, or by the Dis-
6 trict of Columbia or by any state or political subdivision or
7 agency thereof.

8 (b) Any security issued or guaranteed by any foreign
9 government with which the United States is at the time of the
10 sale or offer of sale thereof maintaining diplomatic relations,
11 or by any state, province or political subdivision thereof having
12 the power of taxation or assessment.

13 (c) Any security issued by a national bank or by any federal
14 land bank or joint-stock land bank or national farm loan asso-
15 ciation under the provisions of the federal farm loan act of
16 July seventeen, one thousand nine hundred and sixteen, or
17 by the war finance corporation or by any corporation created
18 or acting as an instrumentality of the government of the
19 United States pursuant to authority granted by the congress

20 of the United States; *provided*, that such corporation is sub-
21 ject to supervision or regulation by the government of the
22 United States.

23 (d) Any security issued or guaranteed either as to prin-
24 cipal, interest or dividend by a corporation owning or operating
25 a railroad or any other public service utility; *provided*, that
26 such corporation is subject to regulation or supervision either
27 as to its rates and charges or as to the issue of its own secu-
28 rities by a public commission, board or officer of the govern-
29 ment of the United States, or of any state, territory or insular
30 possession thereof, or of any municipality located therein,
31 or of the District of Columbia, or of the Dominion of Canada
32 or any province thereof; also equipment notes or bonds based
33 on chattel mortgages, leases, or agreements for conditional
34 sale of cars, motive power or other rolling stock mortgaged,
35 leased or sold to or furnished for the use of or upon a rail-
36 road or other public service utility corporation, or equipment
37 trust certificates, or equipment notes or bonds where the
38 ownership or title of such equipment is pledged or retained
39 in accordance with the provisions of the laws of the United
40 States or of any state, or of the Dominion of Canada, to
41 secure the payment of such equipment trust certificates, bonds
42 or notes; also bonds, notes or other evidences of indebtedness
43 issued by a holding corporation and secured by collateral con-
44 sisting of any securities hereinabove in this clause (d) de-
45 scribed; *provided*, that the collateral securities equal in fair
46 value at least one hundred and twenty-five per centum of the
47 par value of the bonds, notes or other evidences of indebtedness
48 so secured.

49 (e) Any security issued by a corporation organized exclus-
50 ively for educational, benevolent, fraternal, charitable or re-
51 formatory purposes and not for pecuniary profit, and no part
52 of the net earnings of which inures to the benefit of any private
53 stockholder or individual.

54 (f) Securities appearing in any list of securities dealt in
55 on the New York, Boston or Chicago stock exchange or on
56 any other recognized and responsible stock exchange which
57 has been previously approved by the commissioner and which
58 securities have been so listed pursuant to official authorization
59 by such exchange and also all securities senior to any secu-

60 rities so listed, or evidences of indebtedness guaranteed by
61 companies any stock of which is so listed, such securities to be
62 exempt only so long as such listing shall remain in effect.

63 (g) Any security issued by a state bank, trust company,
64 building and loan association or savings institution incor-
65 porated under the laws of and subject to the examination,
66 supervision, and control of any state or territory of the United
67 States or of any insular possession thereof.

68 (h) Negotiable promissory notes or commercial paper; *pro-*
69 *vided*, that such issue of notes or commercial paper mature in
70 not more than twelve months from date of issue and shall be
71 issued within three months after the date of sale.

72 (i) Any security other than common stock outstanding and
73 in the hands of the public for a period of not less than five
74 years upon which no default in payment of principal, interest
75 or dividend exists and upon which no such default has occurred
76 for a continuous immediately preceding period of five years.

Sec. 5. Except as hereinafter expressly provided the pro-
2 visions of this act shall not apply to the sale of any security
3 in any of the following transactions:

4 (a) At any judicial, executor's, administrator's, guardian's,
5 or conservator's sale, or at any sale by a receiver or trustee in
6 insolvency or bankruptcy.

7 (b) By or for the account of a pledge holder or mortgagee
8 selling or offering for sale or delivery in the ordinary course
9 of business and not for the purpose of avoiding the provisions
10 of this act, to liquidate a *bona fide* debt, a security pledged
11 in good faith as security for such debt.

12 (c) An isolated transaction in which any security is sold,
13 offered for sale, subscription or delivery by the owner thereof,
14 or by his representative for the owner's account, such sale
15 or offer for sale, subscription or delivery not being made in
16 the course of repeated and successive transactions of a like
17 character by such owner, or on his account by such representa-
18 tive, and such owner or representative not being the under-
19 writer of such security.

20 (d) The distribution by a corporation actively engaged in
21 the business authorized by its charter of capital stock, bonds
22 or other securities to its stockholders or other security holders
23 as a stock dividend or other distribution out of earnings or
24 surplus; or the issue of securities to the security holders or

25 other creditors of a corporation in the process of a *bona fide*
26 re-organization of such corporation made in good faith and
27 not for the purpose of avoiding the provisions of this act, either
28 in exchange for the securities of such security holders or
29 claims of such creditors or partly for cash and partly in
30 exchange for the securities or claims of such security holders
31 or creditors, or the issue of increased capital stock of a cor-
32 poration sold or distributed by it entirely among its own stock-
33 holders, where no commission or other remuneration is paid
34 or given directly or indirectly in connection with the sale or
35 distribution of such increased capital stock.

36 (e) The sale, transfer or delivery to any bank, savings in-
37 stitution, trust company, insurance company or to any cor-
38 poration or to any broker or dealer; *provided*, that such broker
39 or dealer is actually engaged in buying and selling securities
40 as a business.

41 (f) The transfer or exchange by one corporation to another
42 corporation of their own securities in connection with a con-
43 solidation or merger of such corporations.

44 (g) Bonds or notes secured by mortgage upon real estate
45 where the entire mortgage together with all of the bonds or
46 notes secured thereby are sold to a single purchaser at a single
47 sale.

Sec. 6. No securities except of a class exempt under any
2 of the provisions of section four hereof or unless sold in any
3 transaction exempt under any of the provisions of section five
4 hereof shall be sold within this state unless such securities
5 shall have been registered by notification or by qualification
6 as hereinafter defined.

7 A record of the registration of securities shall be kept in a
8 register of securities to be kept in the office of the commis-
9 sioner, in which register of securities shall also be recorded
10 any orders entered by the commissioner with respect to such
11 securities. Such register, and all information with respect to
12 the securities registered therein shall be open to public inspec-
13 tion.

Sec. 7. The following classes of securities shall be entitled
2 to registration by notification in the manner provided in this
3 section:

4 (1) Securities issued by a corporation, partnership, associa-
5 tion, company, syndicate or trust owning a property, business

6 or industry which has been in continuous operation not less
7 than three years and which has shown during a period of not
8 less than two years or more than ten years next prior to the
9 close of its last fiscal year preceding the offering of such secu-
10 rities, average annual net earnings, after deducting all prior
11 charges not including the charges upon securities to be retired
12 out of the proceeds of sale, as follows:

13 (a) In the case of interest bearing securities, not less than
14 one and one-half times the annual interest charge thereon and
15 upon all other outstanding interest bearing obligations of equal
16 rank.

17 (b) In the case of preferred stock, not less than one and
18 one-half times the annual dividend requirements on such pre-
19 ferred stock and on all other outstanding stock of equal rank.

20 (c) In the case of common stock not less than six per centum
21 upon all outstanding common stock of equal rank, together
22 with the amount of common stock then offered for sale reckoned
23 upon the price at which such stock is then offered for sale or
24 sold.

25 (2) Bonds or notes secured by first mortgage upon real
26 estate leased to a corporation for a term of years at a net
27 rental sufficient to pay the interest and to retire the principal
28 of all bonds or notes secured by said mortgage during the
29 term of the lease where the lease is irrevocable and is pledged
30 under the mortgage securing said bonds or notes; *provided*,
31 any class of stock of the lessee is exempt under any of the pro-
32 visions of section four except clause (e) and clause (i) thereof
33 or will fall within subdivision (1) of this section seven.

34 (3) Any bond or notes secured by a first mortgage upon
35 agricultural lands used and valuable principally for agricul-
36 tural purposes (not including oil, gas or mining property or
37 leases), or upon city, town or village real estate or leaseholds
38 situated in any state or territory of the United States or in
39 the District of Columbia or in the Dominion of Canada as
40 follows:

41 (a) When the mortgage is a first mortgage upon such agri-
42 cultural lands, used and valuable principally for agricultural
43 purposes, and when the aggregate face value of such bonds or
44 notes not including interest notes or coupons, secured thereby
45 does not exceed seventy-five per centum of the then fair market

46 value of said lands plus sixty per centum of the insured value
47 of any improvements thereon; or

48 (b) When the mortgage is a first mortgage upon city, town
49 or village real estate or leaseholds, and when the aggregate face
50 value of such bonds or notes, not including interest notes or
51 coupons, secured by such real estate or leaseholds does not
52 exceed seventy-five per centum of the then fair market value
53 of said mortgaged real estate or leaseholds, respectively, in-
54 cluding any improvements appurtenant thereto, and when said
55 mortgaged property is used principally to produce through
56 rental a net annual income, after deducting operating expenses
57 and taxes, or has a fair rental value after deducting operating
58 expenses and taxes, at least equal to the annual interest plus
59 not less than three per centum of the principal of said mortgage
60 indebtedness; or

61 (c) When the mortgage is a first mortgage upon city, town
62 or village real estate or leaseholds upon which real estate or
63 leaseholds a building or buildings is or are about in good faith
64 forthwith to be erected according to the expressed terms of
65 the mortgage, and when reasonably adequate provision has
66 been made for financing the full completion of said building
67 free and clear of any lien superior to said mortgage, and when
68 the aggregate face value of the bonds or notes, not including
69 interest notes or coupons, secured by such first mortgage does
70 not exceed seventy-five per centum of the fair market value
71 of such mortgaged property, including the building or build-
72 ings to be erected thereon as aforesaid, and when said mort-
73 gaged property is to be used principally to produce through
74 rental a net annual income, after deducting operating expenses
75 and taxes, or will have a fair rental value after deducting
76 operating expenses and taxes, at least equal to the annual in-
77 terest plus not less than three per centum of the principal of
78 said mortgage indebtedness; *provided*, that all advertisements,
79 circulars, and letters advertising the sale of said bonds or
80 notes and all receipts of payments therefor shall bear in bold
81 type upon the face thereof a legend stating that said bonds or
82 notes are construction bonds or notes, and all other written
83 or printed offerings of said bonds or notes shall contain a state-
84 ment to the same effect.

85 The provisions of this sub-section (3) shall not apply in the
86 case of bonds or notes secured wholly or partly by first mort-
87 gage on leaseholds, the value of which leaseholds is required
88 to meet the ratio of property value to face value of obligation
89 as provided in clauses (b) and (c) above, unless all advertise-
90 ments, circulars and letters advertising the sale of said bonds
91 or notes and all receipts of payments therefor, and said bonds
92 and notes shall bear in bold type not less than eighteen point
93 upon the face thereof a legend stating that said bonds or notes
94 are secured wholly or partly by mortgage on a leasehold, as
95 the case may be, and all other written or printed offerings of
96 said bonds or notes shall contain a statement to the same
97 effect.

98 When used in this sub-section (3) the term "mortgage"
99 shall be deemed to include a deed of trust to secure a debt.

100 Securities entitled to registration by notification shall be
101 registered by the filing by the issuer or by any registered
102 dealer interested in the sale thereof in the office of the commis-
103 sioner of a statement with respect to such securities contain-
104 ing the following:

105 (a) Name of issuer.

106 (b) A brief description of the security including amount
107 of the issue.

108 (c) Amount of securities to be offered in the state.

109 (d) A brief statement of the facts which show that the
110 security falls within one of the classes in this section defined.

111 (e) The price at which the securities are to be offered for
112 sale.

113 In the case of securities falling within the class defined
114 by sub-sections (1) or (2), if the circular to be used for the
115 public offering is not filed with the statement, then a copy
116 of such circular shall be filed in the office of the commissioner
117 within two days thereafter or within such further time as the
118 commissioner shall allow.

119 In the case of securities falling within the class defined by
120 sub-section (3), the circular to be used for the public offering
121 shall be filed with the statement.

122 The filing of such statement in the office of the commissioner
123 and the payment of the fee hereinafter provided shall con-
124 stitute the registration of such security. Upon such regis-
125 tration, such securities may be sold in this state by any regis-

tered dealer giving notice in the manner hereinafter provided in section eleven subject, however, to the further order of the commissioner as hereinafter provided.

If, at any time in the opinion of the commissioner, the information contained in the statement or circular filed is misleading, incorrect, inadequate or incomplete, or the sale or offering for sale of the security may work or tend to work a fraud, the commissioner may require from the person filing such statement such further information as may in his judgment be necessary to establish the classification of such security as claimed in said statement or to enable the commissioner to ascertain whether the sale of such security would be fraudulent, or would result in fraud, and the commissioner may also suspend the right to sell such security pending further investigation by entering an order specifying the grounds for such action, and by notifying personally by mail, telephone or telegraph the person filing such statement and every registered dealer who shall have notified the commissioner of an intention to sell such security. The refusal to furnish information required by the commissioner within a reasonable time to be fixed by the commissioner may be a proper ground for the entry of such order of suspension. Upon the entry of any such order of suspension no further sales of such security shall be made until the further order of the commissioner.

In the event of the entry of such order of suspension the commissioner shall upon request give a prompt hearing to the parties interested. If no hearing is requested within a period of twenty days from the entry of such order, or if upon such hearing the commissioner shall determine that any such security does not fall within a class entitled to registration under this section, or that the sale thereof would be fraudulent or would result in fraud, he shall enter a final order prohibiting sales of such security, with his findings with respect thereto; *provided*, that if the finding with respect to such security is that it is not entitled to registration under this section, the applicant may apply for registration by qualification by complying with the requirements of section eight. Appeals from such final order may be taken as hereinafter provided. If however, upon such hearing, the commissioner shall find that the security is entitled to regis-

167 tration under this section, and that its sale will neither be
168 fraudulent nor result in fraud, he shall forthwith enter an
169 order revoking such order of suspension and such security
170 shall be restored to its status as a security registered under
171 this section, as of the date of such order of suspension.

172 At the time of filing the statement, as hereinbefore pre-
173 scribed in this section, the applicant shall pay to the commis-
174 sioner a fee of one-twentieth of one per cent of the aggregate
175 par value of the securities to be sold in this state for which
176 the applicant is seeking registration, but in no case shall
177 such fee be less than twenty-five dollars or more than one
178 hundred dollars. In the case of stock having no par value,
179 the price at which such stock is to be offered to the public,
180 shall be deemed to be the par value of such stock.

181 Every registration under this section shall expire on the
182 thirtieth day of June in each year but new registrations for
183 the succeeding year shall be issued upon written application
184 and upon payment of a fee of twenty-five dollars, without fil-
185 ing of further statements or furnishing any further infor-
186 mation unless specifically required by the commissioner. Ap-
187 plications for renewals must be made not less than thirty days
188 before the first day of the ensuing year, otherwise they shall
189 be treated as original applications.

Sec. 8. All securities required by this act to be registered
2 before being sold in this state, and not entitled to registration
3 by notification shall be registered only by qualification in the
4 manner provided by this section.

5 The commissioner shall receive and act upon applications to
6 have securities registered by qualification, and may prescribe
7 forms on which he may require such applications to be sub-
8 mitted. Applications shall be in writing and shall be duly
9 signed by the applicant and sworn to by any person having
10 knowledge of the facts, and filed in the office of the commis-
11 sioner and may be made either by the issuer of the securities
12 for which registration is applied or by any registered dealer
13 desiring to sell the same within this state.

14 The commissioner may require the applicant to submit to
15 the commissioner the following information respecting the
16 issuer and such other information as he may in his judgment

17 deem necessary to enable him to ascertain whether such secu-
18 rities shall be registered pursuant to the provisions of this
19 section.

20 (a) The names and addresses of the directors, trustees and
21 officers, if the issuer be a corporation or association or trust
22 organized or existing under the common law (as hereinbefore
23 defined), of all partners, if the issuer be a partnership, and
24 of the issuer, if the issuer be an individual.

25 (b) The location of the issuer's principal business office
26 and of its principal office in this state, if any.

27 (c) The purposes of incorporation (if incorporated) and the
28 general character of the business actually to be transacted by
29 the issuer, and the purpose of the proposed issue.

30 (d) A statement of the capitalization of the issuer; a balance
31 sheet showing the amount and general character of its assets
32 and liabilities on a day not more than sixty days prior to the
33 date of filing such balance sheet; a detailed statement of the
34 plan upon which the issuer proposes to transact business; a
35 copy of the security for the registration of which application
36 is made; and a copy of all circulars, prospectuses, advertise-
37 ments or other descriptions of such securities then prepared
38 by or for such issuer and or by or for such applicant (if the
39 applicant shall not be the issuer) to be used for distribution or
40 publication in this state.

41 (e) A statement of the amount of the issuer's income,
42 expenses, and fixed charges during the last fiscal year, or if
43 in actual business less than one year, then for such time as
44 the issuer has been in actual business.

45 (f) A statement showing the price at which such security is
46 proposed to be sold, together with the maximum amount of
47 commission or other form of remuneration to be paid in cash
48 or otherwise, directly or indirectly, for or in connection with
49 the sale or offering for sale of such securities.

50 (g) A detailed statement showing the items of cash, prop-
51 erty, services, patents, good will and any other consideration
52 for which such securities have been or are to be issued in
53 payment.

54 (h) The amount of capital stock which is to be set aside
55 and disposed of as promotion stock, and a statement of all stock
56 issued from time to time as promotion stock.

57 (i) If the issuer is a corporation, there shall be filed with
58 the application a certified copy of its articles of incorporation
59 with all amendments and of its existing by-laws. If the issuer
60 is a trustee there shall be filed with the application a copy
61 of all instruments by which the trust is created or declared
62 and in which it is accepted and acknowledged. If the issuer
63 is a partnership or an unincorporated association, or joint
64 stock company, or any other form of organization whatsoever,
65 there shall be filed with the application a copy of its articles
66 of partnership or association and all other papers pertaining
67 to its organization.

68 All of the statements, exhibits and documents of every kind
69 required by the commissioner under this section, except properly
70 certified public documents, shall be verified by the oath of the
71 applicant or of the issuer in such manner and form as may be
72 required by the commissioner.

73 With respect to securities required to be registered by quali-
74 fication under the provisions of this section, the commissioner
75 may by order duly recorded fix the maximum amount of com-
76 mission or other form of remuneration to be paid in cash or
77 otherwise, directly or indirectly, for or in connection with the
78 sale or offering for sale of such securities.

79 At the time of filing the information, as hereinbefore pre-
80 scribed in this section, the applicant shall pay to the commis-
81 sioner a fee of one-twentieth of one per cent of the aggregate
82 par value of the securities to be sold in this state, for which
83 the applicant is seeking registration, but in no case shall such
84 fee be less than twenty-five dollars or more than three hundred
85 dollars. In case of stock having no par value the price at
86 which such stock is to be offered to the public shall be deemed
87 to be the par value of such stock.

88 If upon examination of any application the commissioner
89 shall find that the sale of security referred to therein would
90 not be fraudulent or would not work or tend to work a fraud
91 upon the purchaser, or that the enterprise or business of the
92 issuer is not based upon unsound business principles, then
93 upon the payment of the fee provided in this section, he shall
94 record the registration of such security in the register of
95 securities, and thereupon such security so registered may be
96 sold by the issuer or by any registered dealer who has notified

97 the commissioner of his intention so to do, in the manner herein-
98 after provided in section eleven subject, however, to the further
99 order of the commissioner as hereinafter provided.

99-a If, after registration, any material change is made in the
99-b status of any issuer or its financial condition, or in the price
99-c at which such security is proposed to be sold, the commissioner
99-d shall immediately be notified of such change by the issuer or
99-e dealer who made application for the registration of such se-
99-f curity and any change in the price at which such security is
99-g proposed to be sold shall be subject to the approval of the
99-h commissioner.

100 Every issuer whose securities have been registered for sale
101 under this section shall be subject to examination as to its
102 methods of business by the commissioner or by his duly author-
103 ized representative at any time the commissioner may deem it
104 advisable, and any applicant for registration shall be subject to
105 such examination. The expense of such examination shall be
106 paid by such applicant or issuer and the failure or refusal of
107 such applicant or issuer to pay such expense upon the demand
108 of the commissioner shall work a forfeiture of its right to
109 registration in this state.

110 Every registration under this section shall expire on the
111 thirtieth day of June in each year but new registrations for
112 the succeeding year shall be issued upon written application
113 and upon payment of a fee of twenty-five dollars, such appli-
114 cation to be accompanied by a statement of the financial condi-
115 tion of the issuer within the preceding sixty days and any fur-
116 ther information specifically required by the commissioner.
117 Applications for renewals must be made not less than thirty
118 days before the first day of the ensuing year, otherwise they
119 shall be treated as original applications.

Sec. 9. Upon any application for registration by notifica-
2 tion under section seven made by an issuer, and upon any appli-
3 cation for registration by qualification under section eight,
4 whether made by an issuer or registered dealer, where the
5 issuer is not domiciled in this state, there shall be filed with
6 such application the irrevocable written consent of the issuer
7 that suits and actions, growing out of the violation of any
8 provision or provisions of this act, may be commenced against
9 it in the proper court of any county in this state in which a
10 cause of action may arise or in which the plaintiff may reside,

11 by the service of any process or pleading authorized by the
12 laws of this state, on the commissioner of securities, and by the
13 acceptance of such service of process by the commissioner for
14 and on behalf of such issuer, said consent stipulating and
15 agreeing that such service of such process or pleadings on such
16 commissioner, or such acceptance by the commissioner, shall be
17 taken and held in all courts to be as valid and binding as if
18 due service had been made upon the issuer himself, and said
19 written consent shall be authenticated by the seal of said
20 issuer, if it has a seal, and by the acknowledged signature of a
21 member of the co-partnership or company, or by the acknowl-
22 edged signature of any officer of the incorporated or unincor-
23 porated association, if it be an incorporated or unincorporated
24 association, duly authorized by resolution of the board of direc-
25 tors, trustees or managers of the corporation or association,
26 and shall in such case be accompanied by a duly certified copy
27 of the resolution of the board of directors, trustees or managers
28 of the corporation or association, authorizing the officers to exe-
29 cute the same, but no such process shall be served on the com-
30 missioner or accepted by him less than ten days before the
31 return thereof. In case any process or pleadings mentioned in
32 this act are served upon the commissioner, or accepted by him,
33 it shall be by duplicate copies, one of which shall be filed in
34 the office of the commissioner and another immediately for-
35 warded by registered mail to the principal office of the issuer
36 against which said process or pleadings are directed.

Sec. 10. The commissioner may revoke the registration of
2 any security by entering an order to that effect, with his find-
3 ings in respect thereto, if upon examination into the affairs of
4 the issuer of such security and after reasonable notice and hear-
4-a ing it shall appear that the issuer:

- 5 (1) Is insolvent; or
- 6 (2) Has violated any of the provisions of this act or any
7 order of the commissioner of which such issuer has notice; or
- 8 (3) Has been or is engaged or is about to engage in fraudu-
9 lent transactions; or
- 10 (4) Is in any other way dishonest or has made any fraudu-
11 lent representations in any prospectus, or in any circular or
12 other literature that has been distributed concerning the issuer
13 or its securities; or
- 14 (5) Is of bad business repute; or

15 (6) Does not conduct its business in accordance with law;
16 or

17 (7) That its affairs are in an unsound condition; or

18 (8) That the enterprise or business of the issuer is not based
19 upon sound business principles. Pending the hearing the com-
19-a missioner may order the suspension of the sale of the security
19-b provided such order shall state the cause of such suspension.

20 In making such examination the commissioner shall have
21 access to and may compel the production of all the books and
22 papers of such issuer, and may administer oaths to and exam-
23 ine the officers of such issuer or any other person connected
24 therewith as to its business and affairs and may also require a
25 balance sheet exhibiting the assets and liabilities of any such
26 issuer or his income statement, or both, to be certified to by a
27 public accountant either of this state or of any other state
28 where the issuer's business is located, approved by the com-
29 missioner.

30 Whenever the commissioner may deem it necessary, he may
31 also require such balance sheet or income statement, or both, to
32 be made more specific in such particulars as the commissioner
33 shall point out or to be brought down to the latest practicable
34 date.

35 If any issuer shall refuse to permit an examination to be
36 made by the commissioner, it shall be proper ground for can-
37 cellation of registration.

38 If the commissioner shall deem it necessary he may enter an
39 order suspending the right to sell securities pending any
40 investigation; *provided*, that the order shall state the commis-
41 sioner's grounds for taking such action.

42 Notice of the entry of such order shall be given personally or
43 by telephone, telegraph, or mail to the issuer and every regis-
44 tered dealer who shall have notified the commissioner of an
45 intention to sell such security.

Sec. 11. No dealer or salesman shall engage in business in
2 this state as such dealer or salesman or sell any securities
3 including securities exempted in section four of this act,
4 except in transactions exempt under section five of this act,
5-6 unless he has been registered as a dealer or salesman in the
7 office of the commissioner pursuant to the provisions of this
8 section; *provided*, that the provisions of this section shall not
8-a apply to the sale of securities exempted from the provisions

8-b of this act by paragraph (d) of section four hereof when
8-c such sales are made by or through *bona fide* employees of
8-d the issuer or its holding or subsidiary company.

9 Every dealer before engaging in business in this state shall
10 file in the office of the commissioner an application for
11 registration in writing in such form as the commissioner may
12 prescribe, duly verified by oath, which shall state the principal
13 office of the applicant, wherever situated, and the location of
14 the principal office and all branch offices in this state, if any,
15 the name or style of doing business, the names, residence and
16 business addresses of all persons interested in the business as
17 principals, co-partners, officers and directors, specifying as to
18 each his capacity and title, the general plan and character of
19 business and the length of time the dealer has been engaged in
20 business. The commissioner may also require such additional
21 information as to applicant's previous history, record and asso-
22 ciation, as he may deem necessary to establish the good reput-
23 e in business of the applicant.

24 Every dealer shall file with his application an irrevocable
25 written consent to the service of process upon the commissioner
26 of securities in actions against such dealer in manner and form
27 as hereinabove provided in section nine of this act.

28 The Commissioner may require a dealer to file with his
29 application a bond in the sum of five thousand dollars
30 payable to the state of West Virginia in such form as the com-
31 missioner may designate, such bond to be conditioned upon the
32 faithful compliance with the provisions of this act by said dealer
33 and by all salesmen registered by him. Such bond shall be execut-
34 ed as surety by a surety company authorized to do business in
35 this state. If the commissioner shall find that the applicant is
36 of good repute and has complied with the provisions of this sec-
37 tion including the payment of the fee hereinafter provided he
38 shall register such applicant as a dealer.

39 Upon the written application of a registered dealer and gen-
40 eral satisfactory showing as to good character and the payment
41 of the proper fee the commissioner shall register as salesmen
42 of such dealer such natural persons as the dealer may request.

42-a The partners of a partnership and the executive officers of
42-b a corporation or other association registered as a dealer may
42-c act as salesmen during such time as such partnership, corpor-

42-d ation or association is so registered without further registra-
42-e tion as salesmen. The salesmen registered by a dealer may
42-f sell any securities for which the dealer registering such sales-
42-g men is registered.

43 The names and addresses of all persons approved for regis-
44 tration as dealers or salesmen and all orders with respect
45 thereto shall be recorded in a register of dealers and salesmen
46 kept in the office of the commissioner which shall be open to
47 public inspection. Every registration under this section shall
48 expire on the thirtieth day of June in each year, but new
49 registrations for the succeeding year shall be issued upon writ-
50 ten application and upon payment of the fee as hereinafter
51 provided, without filing of further statements or furnishing
52 any further information unless specifically required by the
53 commissioner. Applications for renewals must be made not
54 less than thirty days before the first day of the ensuing year,
55 otherwise they shall be treated as original applications. The
56 fee for such registration and for each annual renewal shall be
57 twenty-five dollars in the case of dealers and five dollars in the
58 case of salesmen.

59 Changes in registration occasioned by changes in the per-
60 sonnel of a partnership or in the principals, co-partners, officers
61 or directors of any dealer may be made from time to time by
62 written application setting forth the facts with respect to such
63 change.

64 Every registered dealer who intends to offer any security of
65 any issue, registered or to be registered, shall notify the com-
66 missioner in writing of his intention so to do. The notice shall
67 contain the name of the dealer and shall state the name of the
68 security to be offered for sale, and whenever a dealer shall
69 have prepared such notice and shall have forwarded the same
70 by registered mail, postage prepaid and properly addressed to
71 the commissioner, such dealer, as to the contents of such notice
72 and the filing thereof, shall be deemed to have complied with
73 the requirements of this paragraph. Any issuer of a security re-
74 quired to be registered under the provisions of this act, selling
75 such securities, except in exempt transactions as defined in section
76 five hereof, shall be deemed a dealer within the meaning of
77 this section and required to comply with all the provisions hereof.

78 Every dealer registered under this section shall be subject to
79 examination as to his methods of business by the commissioner

80 or by his duly authorized representative at any time the com-
81 missioner may deem it advisable, and any applicant for regis-
82 tration shall be subject to such examination. The expense of
83 such examination shall be paid by such applicant and the fail-
84 ure or refusal of such applicant to pay such expense upon the
85 demand of the commissioner shall work a forfeiture of his right
86 to registration under this act.

Sec. 12. Registration under section eleven of this act may
2 be refused or any registration granted may be canceled by the
3 commissioner if after a reasonable notice and a hearing the
4 commissioner determines that such applicant or registrant so
5 registered:

6 (1) Has violated any provision of this act or any regulation
7 made hereunder; or

8 (2) Has made a material false statement in the application
9 for registration; or

10 (3) Has been guilty of a fraudulent act in connection with
11 any sale of securities, or has been or is engaged or is about to
12 engage in making fictitious or pretended sales or purchases of
13 any of such securities or has been or is engaged or is about to
14 engage in any practice or sale of securities which is fraudulent
15 or in violation of the law; or

16 (4) Has demonstrated his unworthiness to transact the busi-
17 ness of dealer or salesman.

18 Pending the hearing, the commissioner shall have the power
19 to order the suspension of such dealer's or salesman's license;
20 *provided*, such order shall state the cause of such suspension.

21 In the event the commissioner determines to refuse or cancel
22 a registration as hereinabove provided he shall enter a final
23 order herein with his findings on the register of dealers and
24 salesmen.

25 It shall be sufficient cause for refusal or cancellation of
26 registration in case of a partnership or corporation or any
27 unincorporated association, if any member of a partnership or
28 any officer or director of the corporation or association has been
29 guilty of any act or omission which would be cause for refusing
30 or canceling the registration of an individual dealer or sales-
31 man.

Sec. 13. It will not be necessary to negative any of the
2 exemptions or classifications in this act provided in any com-
3 plaint, information, indictment or any other writ or proceed-

4 ings laid or brought under this act and the burden of proof of
5 any such exemption shall be upon the party claiming the
6 benefit of such exemption or classification.

Sec. 14. If the statement containing information as to
2 securities, as provided for in section eight of this act, shall
3 disclose that any such securities shall have been or shall be
4 intended to be issued for any patent right, copyright, trade-
5 mark, process, lease, formulæ or good will, or for promotion
6 fees or expenses or for other intangible assets, the amount and
7 nature thereof shall be fully set forth and the commissioner
8 may require that such securities so issued in payment of such
9 patent right, copyright, trade-mark, process, lease, formulæ
10 or good will, or for promotion fees or expenses, or for other
11 intangible assets, shall be delivered in escrow to the commis-
12 sioner under an escrow agreement that the owners of such
13 securities shall not be entitled to withdraw such securities from
14 escrow until all other stockholders who have paid for their stock
15 in cash shall have been paid a dividend or dividends aggregat-
16 ing not less than six per cent, shown to the satisfaction of said
17 commissioner to have been actually earned on the investment in
18 any common stock so held, and in case of dissolution or insolv-
19 ency during the time such securities are held in escrow, that
20 the owners of such securities shall not participate in the assets
21 until after the owners of all other securities shall have been
22 paid in full. The commissioner may require the owner of any
22-a securities placed in escrow to enter into an agreement that he
22-b will not sell or otherwise dispose of such securities during the
22-c time they are held in escrow.

23 If more than five hundred dollars in cash or the equivalent
24 at par of the securities has been or is to be paid or issued for
25 intangible assets or property taken over by the issuer, the com-
26 missioner may direct that a subscription blank showing the
27 amount of such payment or issue and such other information in
28 connection therewith as may be deemed necessary by the com-
29 missioner shall be filed with said commissioner and that sub-
30 scriptions or applications for said securities shall be recognized
31 by such issuer or dealer only when made upon such subscription
32 blank and signed by the subscriber or purchaser of securities.

Sec. 15. Whenever it shall appear to the commissioner,
2 either upon complaint or otherwise, that in the issuance, sale,
3 promotion, negotiation, advertisement or distribution of any

4 securities within this state, including any security exempted
5 under the provisions of section four, or in any transaction ex-
6 empted under the provisions of section five, any person, as de-
7 fined in this act, shall have employed or employs, or is about to
8 employ any device, scheme or artifice to defraud or for obtaining
9 money or property by means of any false pretense, representa-
10 tion or promise, or that any such person shall have made, makes
11 or attempts to make in this state fictitious or pretended pur-
12 chases or sales of securities or shall have engaged in or engages
13 in or is about to engage in any practice or transaction or course
14 of business relating to the purchase or sale of securities which is
15 fraudulent or in violation of law and which has operated or
16 which would operate as a fraud upon the purchaser, any one or
17 all of which devices, schemes, artifices, fictitious or pretended
18 purchases or sales of securities, practices, transactions and
19 courses of business which are hereby declared to be and are
20 hereinafter referred to as fraudulent practices the commissioner
21 may investigate, and whenever he shall believe from evidence
22 satisfactory to him that any such person has engaged in, is en-
23 gaged or about to engage in any of the practices or transactions
24 heretofore referred to as and declared to be fraudulent prac-
25 tices, he may in addition to any other remedies, bring an action
26 in the circuit court of Kanawha county in the name and on be-
27 half of the state of West Virginia against such person and any
28 other person or persons heretofore concerned in or in any way
29 participating in or about to participate in such fraudulent prac-
30 tices to enjoin such person, and such other person or persons
31 from continuing such fraudulent practices or engaging therein
32 or doing any act or acts in furtherance thereof. In said action
33 a judgment may be entered awarding such injunction as may be
34 proper. In no case shall the commissioner incur any official or
35 personal liability by instituting injunction or other proceedings
36 or by suspension, revocation or cancellation of any registration
37 under this act.

Sec. 16. Every sale or contract for sale made in violation
2 of any of the provisions of this act shall be voidable at the
3 election of the purchaser and the person making such sale or
4 contract for sale and every director, officer or agent of or for
5 such seller who shall have participated or aided in any way in
6 making such sale shall be jointly and severally liable to such
7 purchaser in an action at law in any court of competent juris-

8 diction upon tender to the seller of the securities sold or of the
9 contract made for the full amount paid by such purchaser, to-
10 gether with all taxable court costs and reasonable attorney's fees
11 in any action or tender under this section; *provided*, that no
12 action shall be brought for the recovery of the purchase price
13 after two years from the date of such sale or contract for sale;
14 and *provided, further*, that no purchaser otherwise entitled shall
15 claim or have the benefit of this section who shall have refused or
16 failed within a reasonable time to accept the voluntary offer of
17 the seller to take back the security in question and to refund the
18 full amount paid by such purchaser, together with interest on
19 such amount for the period from the date of payment by such
20 purchaser down to the date of repayment, such interest to be
21 computed.

22 (a) In case such securities consist of interest bearing obliga-
23 tions at the same rate as provided in such obligations; and

24 (b) In case such securities consist of other than interest bear-
25 ing obligations at the rate of six per centum per annum; less,
26 in every case, the amount of any income from said securities
27 that may have been received by such purchaser.

Sec. 17. An appeal may be taken by any person interested
2 from any final order of the commissioner to the circuit court of
3 Kanawha county by serving upon the commissioner within
4 twenty days after the date of the entry of such order a written
5 notice of such appeal stating the grounds upon which a reversal
6 of such final order is sought; a demand in writing for a certi-
7 fied transcript of the record and of all papers on file in his
8 office affecting or relating to such order and executing a bond
9 in the penal sum of five thousand dollars to the state of West
10 Virginia with sufficient surety, to be approved by the commis-
11 sioner conditioned upon the faithful prosecution of such appeal
12 to final judgment, and the payment of all costs shall be adjudged
13 against the appellant. Thereupon the commissioner shall within
14 ten days make, certify and deliver to the appellant such a tran-
15 script; and the appellant shall within five days thereafter file
16 the same and a copy of the notice of appeal with the clerk of
17 said court, which said notice of appeal shall stand as appellant's
18 complaint and thereupon said cause shall be entered on the trial
19 calendar of said court for trial *de novo* and given precedence
20 over all matters pending in said court. The court shall re-
21 ceive and consider any pertinent evidence, whether oral or doc-

22 unmentary, concerning the order of the commissioner from which
23 the appeal is taken. If the order of the commissioner shall be
24 reversed said court shall by its mandate specifically direct said
25 commissioner as to his further action in the matter, including
26 the making and entering of any order or orders in connection
27 therewith, and the conditions, limitations or restrictions to be
28 therein contained; *provided*, that the commissioner shall not
29 thereby be barred from thereafter revoking or altering such
30 order for any proper cause which may thereafter accrue or be
31 discovered. If said order shall be affirmed, said appellant shall
32 not be barred after thirty days from filing a new application
33 provided such application is not otherwise barred or limited.
34 Such appeal shall not in anywise suspend the operation of the
35 order appealed from during the pendency of such appeal un-
36 less upon proper order of the court. An appeal may be taken
37 from the judgment of the said circuit court on any such appeal
38 on the same terms and conditions as an appeal is taken in civil
39 actions.

Sec. 18. All fees herein provided for shall be collected by the
2 commissioner and shall be turned into the state treasury and the
3 amount of such collections so turned into the treasury are hereby
4 re-appropriated to the said commissioner and such amount to-
5 gether with any appropriations that may be made shall be ex-
6 pended, or such part thereof as may be necessary, for the pur-
7 pose of carrying this act into effect. All money actually and
8 necessarily paid out including expenses of the commissioner and
9 his assistants under this act shall be paid out of such fees and
10 appropriations upon the warrant of the auditor, to be issued
11 upon vouchers containing itemized account of salaries or ex-
12 penses for which the same are used, drawn upon the treasury.
13 All fees which have been collected under the provisions of chap-
14 ter fifty-five-b of the code and now remaining in the treasury
15 are hereby appropriated for the purposes of this act.

Sec. 19. Any person, issuer, dealer, salesman or agent, as de-
2 fined in section three of this act, or any or all of the officers or
3 agents thereof, alone or in conjunction with others, having de-
4 vised or intending to devise any scheme or artifice to defraud
5 any person or persons by or through the sale of any securities,
6 as defined in said section three, including securities exempted
7 from registration under section four of this act and including
8 transactions exempt under section five of this act, or through the

9 sale of real estate situate outside of this state, who shall, for
 10 the purpose of executing or attempting to execute such scheme
 11 or artifice, commit any overt act within this state shall be guilty
 12 of a felony, and upon conviction thereof, shall be punished by
 13 a fine of not more than five thousand dollars, or by imprison-
 14 ment in the penitentiary for not more than five years, or by both
 15 such fine and imprisonment, at the discretion of the court.

16 An indictment under this section shall be sufficient if sub-
 17 stantially as follows:

18 STATE OF WEST VIRGINIA,

19 COUNTY OF....., to wit:.

20 In thecourt of said county.

21 The grand*jurors of the state of West Virginia in and for
 22 the body of the county of, and now attending
 23 said court, upon their oaths present thatas
 24(issuer, dealer, salesman, agent or officer,
 25 as the case may be), having devised or intending to devise a
 26 scheme or artifice to defraud, by or through the sale of certain
 27 securities, to wit, (set out the security or securities here as de-
 28 fined in section three of this act), and who for the purpose of
 29 executing or intending to execute such scheme or artifice to de-
 30 fraud, on the day of, 19...., and in
 31 the county of, did unlawfully and feloniously
 32 induce to subscribe and pay for
 33 shares of the capital stock of, at
 34 dollars per share, making in all
 35 dollars worth of stock for which the said
 36 subscribed and paid, (or state briefly any other overt act com-
 37 mitted in pursuance of said scheme or artifice to defraud).

38 Against the peace and dignity of the state.

Sec. 20. Any person, issuer, dealer, salesman or agent, as de-
 2 fined in section three of this act, who shall, with intent to induce
 3 the purchase of any securities, as defined in said section three,
 4 including securities exempted from registration under section
 5 four of this act and including transactions exempt under section
 6 five of this act, or of any real estate situate outside of this state,
 7 knowingly or recklessly make any false statement, either oral
 8 or written, or knowingly or recklessly conceal any fact materially
 9 affecting the value of such securities, or of such real estate, shall
 10 be guilty of a felony, and upon conviction thereof, shall be pun-
 11 ished by a fine of not more than five thousand dollars, or by im-

12 imprisonment in the penitentiary for not more than two years, or
13 by both such fine and imprisonment, at the discretion of the
14 court.

Sec. 21. Any person signing any statement, list, inventory,
2 balance sheet or other paper or document required to be veri-
3 fied or sworn to, knowing any representation therein contained
4 to be false or untrue (and the depositing of any such statement
5 or document in the office of the commissioner in connection with
6 any registration under this act, shall be deemed *prima facie* evi-
7 dence of knowledge of the falsity thereof or of any representa-
8 tion therein contained, and of the wilfull signing of such state-
9 ment or document), shall be guilty of perjury and shall be sub-
10 ject to the penalties prescribed by the laws of this state therefor.

Sec. 22. Any person, issuer, dealer, salesman or agent who
2 shall sell or offer to sell any securities without compliance with
3 the provisions of this act, shall be guilty of a misdemeanor and,
4 upon conviction thereof, shall be punished by a fine of not more
5 than one thousand dollars, or by imprisonment in the county
6 jail of not more than one year, or by both such fine and im-
7 prisonment, at the discretion of the court.

Sec. 23. Any person or persons, violating any of the pro-
2 visions of this act, for which no specific penalty is provided,
3 shall be guilty of a misdemeanor, and upon conviction thereof
4 shall be punished by a fine of not more than five hundred dol-
5 lars, or by imprisonment in the county jail for not more than
6 six months, or by both such fine and imprisonment, at the dis-
7 cretion of the court.

Sec. 24. Should the court declare any section or clause of
2 this act unconstitutional then such decision shall affect only the
3 section or clause so declared to be unconstitutional and shall
4 not affect any other section or clause of this act.

5 Chapter fifty-five-b of Barnes' code of one thousand nine hun-
6 dred and twenty-three, the same being chapter eighteen of the
7 acts of the legislature of one thousand nine hundred and fifteen,
8 as amended by chapter ninety-nine of the acts of the legislature
9 of one thousand nine hundred and twenty-one, relating to the
10 prevention of fraud in the sale and disposition of certain securi-
11 ties and certain real estate, and all other acts and parts of acts
12 inconsistent herewith are hereby repealed.

CHAPTER 67

(Senate Bill No. 376—By Mr. Willis)

AN ACT to incorporate the trustees of scenic and historic places and objects in West Virginia; preserve and publish history of West Virginia; and to provide for and keep certain property of the state.

[Passed April 24, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Creating West Virginia historical society; right to accept and hold property; to publish history of state.
2. Recommendations to counties.
3. Powers of society.
4. Members not to be interested in contracts; no capital stock; can-

Sec.

- not incumbent its property.
5. Officers; election and term; salaries.
6. Reports to legislature.
7. Not to affect department of archives and history.
8. Vacancies.

Be it enacted by the Legislature of West Virginia:

That there be created an organization to preserve and keep the natural scenery and historic places and objects of the state, and to preserve and publish the history of West Virginia.

Section 1. The governor shall appoint a body of fifty-five persons, each one of whom shall have been identified in some manner in the preservation of history in this state, to be selected for an indefinite term, and so that each county of the state shall have one member, to constitute a body politic and corporate under the name of the West Virginia Historical Society, which shall have the power to purchase out of money in any manner coming into its hands, receive, and hold by grant, devise, bequest, or otherwise in trust or in perpetuity, real and personal estate for the use of said corporation of a value not to exceed one million dollars. It shall also have the power to publish and preserve the written history of the state.

Sec. 2. Said society shall in its discretion make recommendations to counties and other municipalities as to the preservation and control of scenic and historic spots, especially as to marking such spots along the highways of the state.

Sec. 3. Such society shall have the power to purchase out of money in any manner coming into its hands, receive, or in any lawful manner acquire historic objects, memorable, or picturesque places in fee, or in trust, and to preserve and improve the same; *provided, however*, that admission to the public shall always be free unless otherwise expressly provided for by some subsequent act of the legislature.

Sec. 4. No member of such society shall have any interest
2 in any contract in which money is to be expended by said
3 society. Such society shall have no capital stock. It shall
4 have no power to sell, mortgage, give away, or encumber its
5 property.

Sec. 5. The officers shall consist of a president, a vice-presi-
2 dent, six directors, and a secretary-treasurer, who shall be
3 elected annually and hold office until their successors are
4 chosen. No salary shall be paid to any officer or member except
5 to the secretary-treasurer, and to him only when specifically
6 appropriated by the legislature.

Sec. 6. Such society shall make reports from time to time
2 to the legislature.

Sec. 7. Nothing in this act shall in anywise affect the de-
2 partment or bureau of archives and history or the property
3 under its supervision and control.

Sec. 8. Vacancies occurring in the list of said society by
2 death, resignation, removal from the state or otherwise, shall
3 be filled by the governor.

CHAPTER 68

(Senate Bill No. 292—By Mr. Wilkin)

AN ACT to amend and re-enact sections nine and twenty-seven,
thirty-one and fifty-two, of chapter ten of the acts of one thou-
sand nine hundred and thirteen, as amended and re-enacted
by chapter nine of the acts of one thousand nine hundred
and fifteen, chapter one of the acts of the extraordinary
session of one thousand nine hundred and fifteen, chapter one
hundred thirty-one of the acts of one thousand nine hundred
and nineteen, and chapter fifty-eight of the acts of one thou-
sand nine hundred and twenty-three, section fifty of chapter
ten of the acts of one thousand nine hundred and thirteen,
and section fifty-two of chapter ten of the acts of one thousand
nine hundred and thirteen, as amended and re-enacted by
chapter nine of the acts of one thousand nine hundred and
fifteen, chapter one of the acts of the extraordinary session
of one thousand nine hundred and fifteen and chapter one
hundred thirty-one of the acts of one thousand nine hun-

dred and nineteen, and, to add to said chapter sections forty-seven and fifty-seven, relating to a workmen's compensation law.

[Passed April 24, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

<p>Sec. 39. Employer defined; exceptions; payment of premiums; definite or limited periods; foreign corporation employers; when mine is in state.</p> <p>27. Disbursements for injuries to employees: hospital treatment.</p> <p>31. Schedule of compensation due employees.</p> <p>47. Travel expense of claimants.</p>	<p>Sec. 50. Attempts at obtaining fraudulent compensation; penalties for.</p> <p>52. Rules established by congress; commerce clause of Federal Constitution.</p> <p>57. Appeals to the commission, composed of Governor, commissioner of health and commissioner of labor; appeals to supreme court.</p>
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Be it enacted by the Legislature of West Virginia:

That sections nine and twenty-seven, thirty-one and fifty-two of chapter ten of the acts of one thousand nine hundred and thirteen, as amended and re-enacted by chapter nine of the acts of one thousand nine hundred and fifteen, chapter one of the acts of the extraordinary session of one thousand nine hundred and fifteen, chapter one hundred and thirty-one of the acts of one thousand nine hundred and nineteen, and chapter fifty-eight of the acts of one thousand nine hundred and twenty-three, and section fifty of chapter ten of the acts of one thousand nine hundred and thirteen, and section fifty-two of chapter ten of the acts of one thousand nine hundred and thirteen, as amended and re-enacted by chapter nine of the acts of one thousand nine hundred and fifteen, chapter one of the acts of the extraordinary session of one thousand nine hundred and fifteen, and chapter one hundred thirty-one of the acts of one thousand nine hundred and nineteen, relating to the workmen's compensation law, be amended and re-enacted and that sections forty-seven and fifty-seven be added thereto, to read as follows:

Section 9. All persons, firms, associations and corporations
 2 regularly employing other persons for the purpose of carrying
 3 on any form of industry or business in this state, county, and
 4 municipal corporations, the state of West Virginia, and all gov-
 5 ernmental agencies or departments created by it, are employers
 6 within the meaning of this act, and subject to its provisions.
 7 All persons in the service of employers as herein defined and
 8 employed by them for the purpose of carrying on the industry,
 9 business or work in which they are engaged, and check weigh-
 10 men as provided for in chapter twenty, acts of one thousand
 11 nine hundred and eleven, are employees within the meaning of

12 this act and subject to its provisions; *provided*, that the act shall
13 not apply to employers of employees in domestic or agricultural
14 service, persons prohibited by law from being employed, nor to
15 employees of any employer while employed without the state,
16 nor shall a member of a firm of employers, or any officer of an
17 association, or of a corporation employer, including managers,
18 any elective official of the state, county or municipal corpora-
19 tion be deemed an employee within the meaning of this act.

20 The premium and all expenses in connection with the election
21 of the governmental agencies and departments of the state of
22 West Virginia shall be paid out of the state treasury out of the
23 appropriations made for such agencies and departments, in the
24 same manner as other disbursements are made by such agencies
25 and departments.

26 Municipal corporations shall provide for the funds to pay
27 their prescribed premiums into the fund, and said premiums
28 and premiums of state agencies and departments shall be paid
29 into the fund in the same manner as herein provided for other
30 employers subject to this act.

31 Any employer whose employment in this state is to be for a
32 definite or limited period, which could not be considered "regu-
33 larly employing" within the meaning of this act, may elect to
34 pay into the workmen's compensation fund the premiums herein
35 provided for, and at the time of making application to the com-
36 missioner, such employer shall furnish statement under oath
37 showing the probable length of time the employment will con-
38 tinue in this state, the character of the work, an estimate of the
39 monthly payroll, and any other information which may be re-
40 quired by the commissioner. At the time of making application
41 such employer shall deposit with the state compensation com-
42 missioner to the credit of the workmen's compensation fund the
43 amount required by section twenty-four of this act, which
44 amount shall be returned to such employer if his application be
45 rejected by the commissioner. Upon notice to such employer of
46 the acceptance of his application by the commissioner, he shall
47 be an employer within the meaning of this act, and subject to
48 all of its provisions.

49 Any foreign corporation employer electing to comply with
50 the provisions of this act and to receive the benefits hereunder,
51 shall at the time of making application to the commissioner, in
52 addition to other requirements of this act, furnish such commis-

53 sioner with a certificate from the secretary of state showing that
54 it has complied with all the requirements necessary to enable it
55 to legally do business in this state, and no application of such
56 foreign corporation employer shall be accepted by the commis-
57 sioner until such certificate is filed.

58 For the purpose of this act a mine shall be adjudged within
59 this state when the main opening, drift, shaft or slope is located
60 wholly within this state.

61 Any employee within the meaning of this act whose employ-
62 ment necessitates his temporary absence from this state in con-
63 nection with such employment and such absence is directly in-
64 cidental to carrying on an industry in this state who shall have
65 received injury during such absence in the course of and re-
66 sulting from his employment shall not be denied the right to
67 participate in the workmen's compensation fund.

Sec. 27. The commissioner shall disburse and pay from the
2 fund for such personal injuries to such employees as may be
3 entitled thereto hereunder as follows:

4 (a) Such sums for medical, surgical and hospital treatment
5 as may, in the opinion of the commissioner, be reasonably re-
6 quired, not, however, in any case to exceed the sum of eight
7 hundred dollars.

8 (b) Payment for such medical, surgical, or hospital treat-
9 ment authorized under paragraph (a) hereof may be made to
10 the injured employee, or to the person or persons who have fur-
11 nished such service, or who have advanced payment for same,
12 as the commissioner may deem proper.

13 (c) Notwithstanding anything hereinbefore contained, no
14 payment shall be made out of the workmen's compensation fund
15 for medical, surgical or hospital treatment for an injured em-
16 ployee, if said employee be entitled under contract connected
17 with his employment or by reason of a subscription list to med-
18 ical, surgical or hospital treatment without further charge to
19 him; *provided, however*, if in the opinion of the commissioner
20 on the advice of the medical examiner, an injured employee
21 needs hospital treatment for an injury sustained under this act,
22 such hospital treatment shall be ordered by the commissioner
23 and paid out of the workmen's compensation fund, not however,
24 in any case to exceed eight hundred dollars.

Sec. 31. Where compensation is due an employee under the provisions of this act, such compensation shall be as provided in the following schedule:

(a) If the injury causes temporary total disability, the employee shall receive during the continuance thereof sixty-six and two-thirds per centum of his average weekly earnings not to exceed a maximum of sixteen dollars per week nor to be less than a minimum of eight dollars per week.

(b) Paragraph (a) of this subdivision shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding fifty-two weeks; *provided*, that in case an injured employee, by reason of having an ununited fracture or having undergone a surgical operation to correct a vicious union following a fracture, or for the repair of an ununited fracture, or having suffered an injury to the spine or pelvic bones which is of a temporary nature, or for any ankylose joint, is disabled for a longer period than fifty-two weeks, the period which compensation shall be paid may be, but shall not exceed seventy-eight weeks.

(c) If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the award computed and allowed as follows:

For a two per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of eight weeks;

For a five per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of twenty weeks;

For a ten per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of forty weeks;

For a fifteen per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of sixty weeks;

For a twenty per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of eighty weeks;

For a thirty per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of one hundred and twenty weeks;

41 For a forty per centum disability, sixty-six and two-thirds
42 per centum of the average weekly earnings for a period of
43 one hundred and sixty weeks;

44 For a fifty per centum disability, sixty-six and two-thirds
45 per centum of the average weekly earnings for a period of two
46 hundred weeks;

47 For a sixty per centum disability, sixty-six and two-thirds
48 per centum of the average weekly earnings for a period of
49 two hundred and forty weeks;

50 For a seventy per centum disability, sixty-six and two-thirds
51 per centum of the average weekly earnings for a period of
52 two hundred and eighty weeks;

53 For an eighty per centum disability, sixty-six and two-thirds
54 per centum of the average weekly earnings for a period of
55 three hundred and twenty weeks;

56 For an eighty-five per centum disability, sixty-six and two-
57 thirds per centum of the average weekly earnings for a period
58 of three hundred and forty weeks;

59 For a disability from eighty-five to one hundred per centum,
60 sixty-six and two-thirds per centum of the average weekly
61 earnings during the remainder of life.

62 Awards for permanent disability of from two per centum to
63 eighty-five per centum shall be computed on the basis of four
64 weeks' compensation for each per centum of disability deter-
65 mined.

66 (d) If the injury results in the total loss by severance of
67 any of the members named in this paragraph, the percentage
68 of disability shall be determined in accordance with the fol-
69 lowing table, and award made as provided in paragraph (c)
70 of this section:

71 The loss of a great toe shall be considered a ten per centum
72 disability.

73 The loss of a great toe (one phalange) shall be considered a
74 five per centum disability.

75 The loss of other toes shall be considered a four per centum
76 disability.

77 The loss of other toes (one phalange) shall be considered a
78 two per centum disability.

79 The loss of all toes shall be considered a twenty-five per
80 centum disability.

81 The loss of forepart of foot shall be considered a thirty per
82 centum disability.

- 83 The loss of foot shall be considered a thirty-five per centum
84 disability.
- 85 The loss of leg shall be considered a forty-five per centum
86 disability.
- 87 The loss of thigh shall be considered a fifty per centum
88 disability.
- 89 The loss of thigh at hip joint shall be considered a sixty
90 per centum disability.
- 91 The loss of little or fourth finger (one phalange) shall be
92 considered a three per centum disability.
- 93 The loss of little or fourth finger shall be considered a five
94 per centum disability.
- 95 The loss of ring or third finger (one phalange) shall be con-
96 sidered a three per centum disability.
- 97 The loss of ring or third finger shall be considered a five
98 per centum disability.
- 99 The loss of middle or second finger (one phalange) shall be
100 considered a three per centum disability.
- 101 The loss of middle or second finger shall be considered a
102 seven per centum disability.
- 103 The loss of index or first finger (one phalange) shall be
104 considered a six per centum disability.
- 105 The loss of index or first finger shall be considered a ten per
106 centum disability.
- 107 The loss of thumb (one phalange) shall be considered a
108 twelve per centum disability.
- 109 The loss of thumb shall be considered a twenty per centum
110 disability.
- 111 The loss of thumb and index finger shall be considered a
112 thirty-two per centum disability.
- 113 The loss of index and middle finger shall be considered a
114 twenty per centum disability.
- 115 The loss of middle and ring finger shall be considered a fif-
116 teen per centum disability.
- 117 The loss of ring and little finger shall be considered a ten per
118 centum disability.
- 119 The loss of thumb, index and middle finger shall be consid-
120 ered a forty per centum disability.
- 121 The loss of index, middle and ring finger shall be considered
122 a thirty per centum disability.
- 123 The loss of middle, ring and little finger shall be considered
124 a twenty per centum disability.

125 The loss of four fingers shall be considered a thirty-two
126 per centum disability.

127 The loss of hand shall be considered a fifty per centum dis-
128 ability.

129 The loss of forearm shall be considered a fifty-five per
130 centum disability.

131 The loss of arm shall be considered a sixty per centum dis-
132 ability.

133 (e) The total loss of one eye, or the total and irrecoverable
134 loss of the sight thereof shall be considered a thirty-three per
135 centum disability, and the injured employee shall be entitled
136 to compensation for a period of one hundred and thirty-two
137 weeks.

138 For the partial loss of vision in one, or both eyes, the per-
139 centage of disability shall be determined by the commissioner,
140 using as a basis the total loss of one eye.

141 (f) The award for permanent disabilities intermediate to
142 those fixed by the foregoing schedule and permanent disability
143 or from two per centum to eighty-five per centum shall be in
144 the same proportion and shall be computed and allowed by the
145 commissioner.

146 (g) The percentage of all permanent disabilities other
147 than those enumerated in paragraphs (c), (d), (e), and (f) of
148 this section shall be determined by the commissioner, using as
149 a basis the loss of an arm at or above the elbow, and award
150 made in accordance with the schedule in paragraph (c).

151 (h) Compensation payable under any paragraph of this
152 section shall be limited as follows: Not to exceed a maximum
153 of sixteen dollars per week, nor to be less than a minimum of
154 eight dollars per week.

155 (i) Where an injury results in temporary total disability
156 for which compensation is awarded under paragraph (a) of
157 this section, and such injury is later determined a permanent
158 partial disability under paragraph (c), the amount of com-
159 pensation so paid shall be considered as payment of the com-
160 pensation payable for such injury in accordance with the
161 schedule in paragraph (c). Compensation under this section
162 shall be payable only to the injured employee, and the right
163 thereto shall not vest in his or her estate; except that such
164 compensation as may have accrued to the date of his or her

165 death, shall be paid to the dependents of such injured em-
166 ployee, if there be such dependents at the time of death.

167 (j) The following permanent disabilities shall be conclu-
168 sively presumed to be total in character:

169 Loss of both eyes or the sight thereof;

170 Loss of both hands or the use thereof;

171 Any injury resulting in practically total paralysis.

172 In all other cases permanent disability shall be determined
173 by the commissioner in accordance with the facts in the case,
174 and award made in accordance with the schedule in para-
175 graph (c).

Sec. 47. The commissioner shall have power whenever in his
2 opinion it shall be necessary, to order a claimant to appear for
3 examination before a medical examiner selected by the commis-
4 sioner. Claimant shall be entitled to reasonable traveling and
5 other expenses necessarily incurred by him in obeying said
6 order, which shall be paid out of the amount allowed under this
7 act for medical, surgical and hospital treatment.

Sec. 50. Any person who shall knowingly and with fraudu-
2 lent intent secure or attempt to secure larger compensation, or
3 compensation for a longer term than he is entitled to, from
4 said workmen's compensation fund, or knowingly and with like
5 intent secure or attempt to secure compensation from said
6 fund when he is not entitled thereto, or any person who shall
7 knowingly and with like intent aid and abet any one in the
8 commission of the offenses herein set forth, shall be deemed
9 guilty of a misdemeanor, and upon conviction thereof shall be
10 fined not exceeding five hundred dollars, or imprisoned not
11 exceeding twelve months, or both, in the discretion of the court,
12 and if the person so convicted is receiving compensation from
13 said fund, he shall, from and after such conviction, cease to
14 receive such compensation.

Sec. 52. In case any employer within the meaning of this
2 act is also engaged in interstate or foreign commerce, and for
3 whom a rule of liability or method of compensation has been
4 established by the congress of the United States, this act shall
5 apply to him, only to the extent that his mutual connection
6 with work in this state is clearly separable and distinguishable
7 from his interstate work, and in such case such employer and
8 any of his employees thus engaged in both intrastate and inter-
9 state work, may, with the approval of the commissioner, elect to

10 pay into the fund the premiums provided by this act on account
11 of work done in this state only, by filing written acceptances,
12 or a joint election with the commissioner, and such election
13 when filed and approved by the commissioner shall subject the
14 acceptor irrevocably to the provisions of the act to all intents
15 and purposes as if they had been originally included in its
16 terms. Payments of premiums shall be on the basis of the pay-
17 roll of the employees who accept as aforesaid, for work done
18 in this state only.

19 That unless, and until, the congress of the United States has
20 by appropriate legislation established a rule of liability or
21 method of compensation governing employers and employees
22 engaged in commerce within the purview of the commerce
23 clause of the Federal Constitution (article one, section eight),
24 section nine, as herein amended, shall apply without regard to
25 the interstate or intrastate character or nature of the work or
26 business engaged in; *provided, however*, that this act shall not
27 apply to employees of employers engaged in interstate com-
28 merce.

Sec. 57 Should an injured employee, or in case of the death
2 of an employee, his beneficiary, feel aggrieved at any award
3 made by the workmen's compensation commissioner, the said
4 employee, or his beneficiary in case of death, shall have the
5 right of appeal to a commission, hereby created, to be composed
6 of the governor, who shall be *ex-officio* chairman, the commis-
7 sioner of health and the commissioner of labor. Either written
8 or oral evidence by the party or parties aggrieved may be sub-
9 mitted to said commission, and after due consideration of the
10 case in controversy a majority decision of the aforesaid com-
11 mission shall be binding on the workmen's compensation com-
12 missioner, in the payment of compensation. Appeals from the
13 decision of the commission shall lie with the supreme court of
14 appeals.

CHAPTER 69

(House Bill No. 151—By Mr. Heaberlin, by request)

AN ACT to amend and re-enact section fifteen-d of chapter thirty-
four of Barnes' code of one thousand nine hundred and

twenty-three as amended by chapter fifteen of the acts of the legislature of one thousand nine hundred and twenty-three, relating to licensing insurance agents.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

15-d. Agents license, who can solicit ap-

plications for policies; commissioner's duty when law violated.

Be it enacted by the Legislature of West Virginia:

That section fifteen-d of chapter thirty-four of Barnes' code of one thousand nine hundred and twenty-three as amended by chapter fifteen of the acts of one thousand nine hundred and twenty-three, be amended and re-enacted so as to read as follows:

Section 15-d. No person shall act in the solicitation or procurement of applications for, or policies of, insurance for any company referred to in this chapter except as solicitor under section fifteen-c of this law, without first procuring a certificate of authority as agent from the insurance commissioner, which certificate shall be renewable on the first day of April in each year; and said insurance commissioner shall not issue such certificate of authority to any person who is not a resident of this state, and whom he finds not trustworthy and competent to transact the business for authority to do which application is made; and on conviction of any person acting as such agent, of the violation of any provision of this law the insurance commissioner shall forthwith revoke the certificate of authority issued to him, and no certificate shall be thereafter issued to such convicted person, until one year from the date of conviction; *provided, however,* that as to the business of life insurance, such residence shall not be required when a non-resident applicant for a license promises and agrees as a condition of being licensed, that all life insurance policies issued as a result of solicitation on his part or in his behalf in the state, shall be reported, placed and consummated through a duly licensed resident agent of the insurer or insurers taking such risks, and provided further, that such licensed non-resident agents may receive commissions on such insurance.

Whenever the insurance commissioner upon investigation is satisfied that any agent acting under his supervision and holding a certificate of authority from him is violating or has violated the insurance laws of West Virginia, or that he is incompetent or untrustworthy, or whenever he shall proceed to revoke a certificate or license of such agent under any section of

31 this law he shall notify such agent of his findings, and state in
 32 writing the complaint against him and require such person on
 33 a date named, which date shall not be less than thirty days
 34 after service of notice, to show cause why his license should not
 35 be revoked.

36 If on the date named in said notice the said agent does not
 37 present good and sufficient reason why his authority to trans-
 38 act business in this state should not be revoked, the said commis-
 39 sioner shall revoke such person's certificate of authority. All
 40 decisions and findings of the insurance commissioner made
 41 under the provisions of this section shall be reviewable by
 42 proper proceedings in any court of competent jurisdiction
 43 within this state; *provided, however*, that nothing contained in
 44 this section shall be taken or construed as preventing any such
 45 agent from doing business under the authority of such certifi-
 46 cate during the pendency of any proceeding taken to review
 47 an adverse decision of the insurance commissioner.

CHAPTER 70

(House Bill No. 153—By Mr. Heaberlin, by request)

AN ACT to amend and re-enact section twenty of chapter fifty-five of Barnes' code of one thousand nine hundred and twenty-three, relating to reports of farmers' mutual fire insurance companies.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 20.	Insurance commissioner super-		vision: reports; fees; certificate of authority.
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Be it enacted by the Legislature of West Virginia:

That section twenty of chapter fifty-five of Barnes' code of one thousand nine hundred and twenty-three be amended and re-enacted so as to read as follows:

Section 20. Every such company shall be examined by the
 2 insurance commissioner or some other person appointed by him
 3 at least once in three years, and oftener if he deems it neces-
 4 sary. He shall have free access to the books, papers and records
 5 of the corporation, and is authorized to examine members,
 6 officers and employees of the company under oath touching
 7 any matters pertaining to the operation of the company. Every

8 company operating under this chapter shall make an annual
 9 report to the insurance commissioner on or before March first,
 10 showing the condition of the company on December thirty-first
 11 next preceding, on such form as he shall prescribe and under
 12 the same requirements as are made of stock fire insurance com-
 13 panies doing business in this state, and shall pay the insurance
 14 commissioner a fee of five dollars at the time of filing the annual
 15 statement. Every such company shall be required to obtain
 16 from the insurance commissioner a certificate of authority for
 17 each of its agents who solicits or writes insurance in this state,
 18 the fee for which shall be one dollar. Insurance companies
 19 coming within the provisions of this chapter and now doing
 20 business in this state may continue such business by satisfactory
 21 report to the insurance commissioner, who shall thereupon issue
 22 a certificate authorizing them to continue business or by organ-
 23 izing under and complying with the provisions as set forth in
 24 this chapter. The certificates of authority to companies and
 25 agents herein provided shall continue in force until the first of
 26 April next after their issue unless sooner revoked for cause.

CHAPTER 71

(House Bill No. 663—By Mrs. Davis)

AN ACT regulating the fire insurance commission paid to or charged by non-resident fire insurance brokers or agents from resident licensed fire insurance agents of West Virginia.

[Passed April 23, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.		Sec.	
1.	Limiting commission to be paid by agent.	3.	company. Enforcement.
2.	Limiting commission to be paid by	4.	Penalty.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for any resident fire insurance agent licensed to do business in this state to pay any non-resident insurance broker or agent a greater rate of commission than ten per cent of the premium on any fire insurance policy covering properties in West Virginia.

Sec. 2. It shall be unlawful for any fire insurance company licensed to do business in the state of West Virginia to pay to any non-resident broker or agent, any commission on

4 fire insurance covering property in this state other than the
5 commission paid the non-resident broker or agent by the resi-
6 dent agent writing or countersigning the policies.

Sec. 3. For the purpose of enforcing the provisions of
2 this act, the insurance commissioner of the state of West Vir-
3 ginia may require any licensed resident agent, fire insurance
4 broker or fire insurance company to make a sworn affidavit
5 covering such facts as may be demanded or required by the
6 state insurance commissioner and all books and records of
7 any licensed resident agent, fire insurance broker or fire insur-
8 ance company shall be open to the inspection of the insurance
9 commissioner of West Virginia.

Sec. 4. Any resident agent, fire insurance broker or fire
2 insurance company found guilty of violating any of the pro-
3 visions of this act shall be deemed guilty of a misdemeanor,
4 and upon conviction thereof, shall be fined not less than five
5 hundred dollars nor more than two thousand dollars and in
6 addition thereto, the state insurance commissioner shall revoke
7 his or its license to do business within the state.

CHAPTER 72

(House Bill No. 9—By Mr. Dean)

AN ACT to amend and re-enact section thirty-two-b of chapter
fifty-five-a of the code.

[Passed March 30, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 32-b. Organizations may maintain homes; exempt from taxation; such		organizations, corporations; ad- ministration. Church organiza- tions not authorized.
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Be it enacted by the Legislature of West Virginia:

That section thirty-two-b of chapter fifty-five-a of the code be
amended and re-enacted so as to read as follows:

Homes and Asylums; Acquisition of Real Estate

Section 32-b. (1) It shall be lawful for the grand lodges of
2 the Knights of Pythias, Independent Order of Odd Fellows,
3 Ancient Free and Accepted Masons, Junior Order United
4 American Mechanics, Improved Order of Red Men and other
5 organizations of like character, to acquire by purchase, devise

6 or gift, and hold the same for the purpose of establishing,
7 erecting, and maintaining thereon homes or asylums for the
8 care and support of orphans and widows of deceased members,
9 and of disabled and aged members of said organizations in in-
10 digent circumstances, respectively, such quantity of real estate
11 within this state, as shall be necessary, not exceeding three hun-
12 dred acres of land in the aggregate, upon which to erect, con-
13 struct and maintain such buildings as may be necessary to care
14 for and maintain therein and thereon, all such persons as may
15 be eligible to admission thereto; and all of said land to be cul-
16 tivated, or otherwise utilized, for the benefit and support of
17 such homes or asylums. And said real estate thus acquired to-
18 gether with such personal property as may be needed in the ad-
19 ministration of the affairs of said homes or asylums shall be ex-
20 empt from every species of taxation as long as used for the pur-
21 pose of these homes or asylums.

22 (2) Each of such grand lodges desiring to establish such
23 home or asylum shall adopt and prescribe such rules and regu-
24 lations for the government and control thereof as may be
25 deemed wise by such grand body; and it shall appoint boards
26 of directors, trustees, regents or commissioners, composed of a
27 specified number of persons from its own membership, not
28 fewer than five nor more than seven, to serve definite periods;
29 *provided, however,* that nothing herein shall prohibit such
30 grand lodges from electing one such director, trustee, regent or
31 commissioner from their respective associate branches, known
32 as Rebekahs, Pythian Sisters, Eastern Star or like organizations
33 as the case may be, which board shall have the management and
34 control of such home or asylum, under the prescribed rules and
35 regulations adopted by said body for the government thereof.
36 Said board of directors, trustees, regents or commissioners, shall
37 organize by the election of a president, secretary and treasurer,
38 and if necessary or expedient an executive committee, all from
39 its own membership. Such boards shall be corporate bodies,
40 may have a common seal, sue and be sued, plead and be im-
41 pleaded, contract and be contracted with, take, hold and pos-
42 sess such real estate and personal property for the grand bodies
43 respectively, as may be necessary for the use of said homes or
44 asylums.

45 (3) Each board of directors, trustees, regents or commission-
46 ers thus appointed by these grand bodies and others of like char-

47 acter, as are mentioned in the title and first section of this act,
48 and vested with corporate powers by the provisions of the sec-
49 ond section of said act, shall be styled and known by such cor-
50 porate name as may be designated and bestowed thereon by the
51 grand body appointing or creating such board; and in this
52 name it may take and hold the real estate and personal property
53 as the said grand body shall direct, and in the manner pre-
54 scribed in chapter fifty-seven of the code of this state.

55 (4) Any grand lodges enumerated in this act, or similar
56 grand lodges heretofore incorporated as such grand lodge under
57 the laws of this state, or which may hereafter be incorporated
58 under said laws, shall be authorized and empowered to take by
59 purchase, gift, devise or otherwise, land not to exceed five hun-
60 dred acres for the purpose of establishing and maintaining
61 homes or asylums for orphans, widows, aged and indigent mem-
62 bers and dependents, as prescribed in section two of this act,
63 and in and under its corporate name may hold or dispose of
64 said land under such regulations and restrictions as said grand
65 lodge may prescribe for the uses and purposes as set forth in
66 sections one and two of this act.

67 (5) Nothing in this act contained shall authorize the incor-
68 poration of any society or organization connected directly or
69 indirectly with any church, religious sect or denomination, and
70 nothing in this act contained shall authorize any society or or-
71 ganization, connected directly or indirectly with any church,
72 religious sect or denomination to have or acquire any real
73 estate.

CHAPTER 73

(House Bill No. 10—By Mr. Hundley)

AN ACT to amend and re-enact chapter fifty-one of the acts of the legislature of West Virginia, one thousand nine hundred and seventeen, same being section sixteen-c, chapter one hundred and forty-four of Barnes' West Virginia code, one thousand nine hundred and twenty-three edition, relating to the desertion and non-support of wife and child, and authorizing extradition of persons accused of its violations.

[Passed April 1, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Non-support of children or wife; penalty.
2. Proceedings for; by whom and how instituted; jurisdiction.
3. Amount payable; bond for; default.
4. Appeal, bond for.
5. Evidence of marriage or parentage;

Sec.

- competency of husband and wife; prima facie evidence of desertion.
6. Venue of offense; duty of county court to provide funds for extradition.
7. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-one of the acts of the legislature of West Virginia, one thousand nine hundred and seventeen, same being section sixteen-c of chapter one hundred and forty-four, of Barnes' West Virginia code, one thousand nine hundred and twenty-three edition, be amended and re-enacted so as to read as follows:

Section 1. Any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife, in destitute and necessitous circumstances, or any parent who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her (legitimate or illegitimate) child or children, under the age of sixteen years, in destitute and necessitous circumstances, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, with hard labor, or both, and the court may also direct the county court to cause such husband or parent to labor on the roads or other public improvements of the county, for which it shall allow the sum of not less than one dollar nor more than two dollars per day (but no such allowance shall be construed as a fine or part of the sentence of the court) and such allowance shall be paid by the county court to the wife or other guardian, curator, custodian or trustee of said minor child or children, as the court may order.

Sec. 2. Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife, child or children, or by any other person who may be cognizant of the facts, before any justice of the peace of the county in which such wife, child or children may be, and upon such complaint the justice shall issue a warrant without pay if said wife, child or children are pecuniarily unable to pay for same, and it shall be the duty of the constable to serve said warrant, and in case said warrant is issued and served as aforesaid, said justice

10 shall have the right to require the defendant to pay the costs
11 of the proceeding, in addition to the penalty hereinbefore pro-
12 vided. Juvenile, circuit, intermediate and criminal courts shall
13 have original concurrent and appellate jurisdiction in all cases
14 arising under this act.

Sec. 3. The justice of the peace before whom such convic-
2 tion is had, may in lieu of the penalty herein provided, or in
3 addition thereto, having regard to the circumstances and finan-
4 cial ability or earning capacity of the defendant, require the
5 said defendant to pay a certain sum periodically to the wife or
6 other guardian, curator, custodian or trustee of said wife, child
7 or children which shall be subject to change from time to time
8 as circumstances may require, and to release the defendant upon
9 his or her entering into bond with good surety in the penalty of
10 not less than five hundred dollars. The condition of the bond
11 shall be to make payments as aforesaid, until the child or chil-
12 dren arrive at the age of sixteen years, and to appear before the
13 court in case default be made in the payment of said sums and
14 further, in case said defendant fail to make said payments, the
15 said justice may forthwith re-arrest said defendant, and pro-
16 ceed with the trial under the original charge, or sentence him or
17 her under the original charge, as the case may be, and in case of
18 forfeiture of the bond herein provided for, and enforcement
19 thereof, the sum recovered may be, in the discretion of the court
20 wherein the forfeiture is enforced, be paid in whole or in part to
21 the wife or other guardian, curator, custodian or trustee of the
22 said minor child or children, as the court may order.

Sec. 4. If, at the trial, any husband, person or parent shall
2 be found guilty of a violation of the provisions of this act, and
3 desires to appeal from the decision of the justice trying such
4 case, he shall give bond in the penalty of not less than five hun-
5 dred dollars, with the condition that he shall appear before
6 the court to which he appeals, and if, upon trial on appeal, said
7 defendant is again found guilty of said charge, the payments
8 to the said wife, child or children, as the case may be, fixed
9 by the justice of the peace, shall relate back to the date of the
10 appeal, and said bond shall be liable for the payments of said
11 sums, and judgment may be entered thereon against the de-
12 fendant and his surety.

Sec. 5. No other or greater evidence shall be required to
 2 prove the marriage of such husband and wife, or that the de-
 3 fendant is the father or that the alleged mother is the mother
 4 of such child or children, than is or shall be required to prove
 5 such facts in a civil action. In prosecutions under this act both
 6 husband and wife shall be competent witnesses to testify against
 7 each other to any and all relevant matters, including the fact
 8 of such marriage, and the parentage of such child or children.
 9 Proof of the desertion of such wife, child or children, in desti-
 10 tute and necessitous circumstances, or neglect or refusal to pro-
 11 vide for the support and maintenance of such wife, child or
 12 children, shall be *prima facie* evidence that such desertion, neg-
 13 lect or refusal, is wilful.

Sec. 6. An offense under this act shall be held to have been
 2 committed in any county in which such husband, parent, wife,
 3 child or children may be at the time such desertion, refusal, neg-
 4 lect or failure to provide or any part thereof took place or where
 5 the offender may be at the time such complaint is made.
 6 It shall be the duty of the county court in any case in which
 7 application is properly made by the officers responsible for
 8 the execution of the law, to provide the funds necessary for
 9 extraditing any person charged with an offense under this act,
 10 who has gone to another state, and desertion or non-support of
 11 wife, child or children, shall be an extraditable offense under
 12 this chapter.

Sec. 7. All acts and parts of acts inconsistent herewith are
 hereby repealed.

CHAPTER 74

(House Bill No. 579—By Mr. Read, by request)

AN ACT to amend and re-enact sections two, four and five of chap-
 ter one hundred and twenty-two of the code of West Virginia,
 relating to change of name and adoption of children.

[Passed April 1, 1925: in effect from passage. Approved by the Governor.]

Sec. 2. Adoption of children: right. 4. Proceedings on petitions; inheri- tance.	Sec. 5. Setting aside adoption: appeal: dissent by child.
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Be it enacted by the Legislature of West Virginia:

That sections two, four and five of chapter one hundred and
 twenty-two of the code of West Virginia be amended and re-enact-
 ed so as to read as follows:

Adoption of Children; Right

Section 2. It shall be lawful for any person not married, or
2 any husband, with his wife's consent, or any wife with her
3 husband's consent or any husband and wife jointly, to petition
4 the circuit court or judge thereof in vacation of the county
5 wherein he, she or they may reside, for permission to adopt any
6 minor child, and also to petition for a change of name of such
7 child; *provided*, that if such child be of the age of fourteen
8 years, or over, the written consent of such child to such adop-
9 tion, duly acknowledged, must be obtained and presented with
10 the petition, and also the written consent of the parent or
11 parents, if living; if both parents should be dead or unknown,
12 or insane, or shall have abandoned the child sought to be adopt-
13 ed, or have been deprived of the custody of the person of said
14 child by law, then, and in such case the written consent, ac-
15 knowledged as aforesaid, must be obtained from the legal
16 guardian of such child or those having at the time the legal
17 custody of the child. And if there be no legal guardian nor
18 any person having the legal custody of the child then such
19 consent must be obtained from some discreet and suitable person
20 appointed by the court or judge thereof to be the next friend
21 of such child sought to be adopted.

Proceedings on Petitions; Inheritance

Sec. 4. Upon the presentation of such petition to the court
2 or judge thereof in vacation the same shall be ordered filed with
3 the clerk of said court, and the court or judge thereof shall
4 appoint a day for the hearing of said petition and the examina-
5 tion under oath of the parties in interest. And the court or
6 judge thereof may adjourn the hearing of said petition or the
7 examination of the parties in interest from time to time, as the
8 nature of the case may require; and if it shall be necessary
9 under the provisions of this act, that a discreet and suitable
10 person shall be appointed as the next friend to the child sought
11 to be adopted, then and in that case the court or judge thereof
12 shall order a notice of the petition and of the time and the
13 place when and where the appointment of next friend will be
14 made, to be published in some newspaper of general circulation
15 in the county where said court is located, once a week for two
16 successive weeks, and at the time and place so named, and
17 upon due proof of the publication of such notice, the court or

18 judge thereof shall make such appointment, and shall thereupon
19 assign a day for the hearing of said petition and the examina-
20 tion of the parties interested, and upon the day so appointed
21 the court or judge thereof shall proceed to a full hearing of
22 the petition and examination of the parties in interest, under
23 oath; and if the court or judge thereof from the testimony,
24 shall be of the opinion that the facts stated in the petition are
25 true, and if upon examination the court or judge thereof is
26 satisfied that the petitioner or petitioners, is, or are of good
27 moral character, and of respectable standing in the community,
28 and of ability to properly maintain and educate the child sought
29 to be adopted, and that the best interests of the child would be
30 promoted by such adoption, then and in such a case, the court
31 or judge thereof shall make a decree reciting at length the facts
32 proven and the name by which the child shall thereafter be
33 known; declaring and adjudging that from the date of such de-
34 cree, the rights, duties, privileges and relations theretofore exist-
35 ing between the child and his or her parent or parents, shall be in
36 all respects at an end, excepting the right of inheritance, and that
37 the rights, duties, privileges and relations between the child and
38 his or her parent or parents by adoption, shall thenceforth in all
39 respects be the same, including the right of inheritance, as if the
40 child has been born to such adopted parent or parents in lawful
41 wedlock, except only as otherwise provided in this chapter.
42 Petitions and decrees shall be recorded in a book kept for that
43 purpose, and the clerk shall receive the same fees as in other
44 cases in the circuit court, and upon the entry of such decree of
45 adoption, the parents of the child, if living, shall be divested
46 of all legal rights and obligations due from them to the child
47 or from the child to them, and the child shall be free from all
48 legal obligations of obedience or otherwise to the parents, and
49 the adopting parent or parents of the child shall be invested
50 with every legal right in respect to obedience and maintenance
51 on the part of the child, as if said child had been born to them
52 in lawful wedlock; and the child shall be invested with every
53 legal right, privilege, obligation and relation in respect to edu-
54 cation, maintenance, and the right of inheritance in the estate
55 of such adopting parent or parents, as if born to them in lawful
56 wedlock; except that said child shall not be capable of taking
57 property expressly limited to the heirs of the body of the adopt-
58 ing parent or parents, nor property coming from the collateral

59 kindred of such adopted parent or parents by right of in-
60 heritance; *provided*, that on the death of the adopting parent
61 or parents and the subsequent death of the child so adopted
62 without issue, the property of such adopting deceased parent
63 or parents shall descend to and be distributed among the next
64 of kindred of said parent or parents, and not to the next of
65 kin of the child adopted. *Provided, also*, that if such adopting
66 parent or parents shall have another child or children, theirs by
67 birth, then, and in that case, the adopted child shall share the
68 inheritance with the child or children born to the adopting
69 parent or parents, in which case, he, she or they, shall re-
70 spectively inherit from and through each other as if all had
71 been children of the same parents born in lawful wedlock.

Setting Aside Adoption; Appeal; Dissent by Child

Sec. 5. A parent or guardian of a minor, when a minor is
2 adopted under the provisions of this chapter, who had no notice
3 of the proceedings, may, at any time within a year after receiv-
4 ing notice thereof apply by petition to the circuit court in
5 which the petition mentioned in the second section was filed,
6 praying that the adoption may be vacated. The court applied
7 to shall give notice of a hearing, and shall hear the petitioner
8 and all parties interested, and may vacate or affirm the
9 adoption in its discretion. Any party interested may appeal
10 from the decision of the said court in the matter, as in other
11 cases of appeals in matters of probate. If the person thus
12 adopted is adopted while a minor, he may within one year after
13 becoming of age, sign, seal and acknowledge before proper
14 authority, in the county in which the instrument of adoption
15 was filed, a dissent from such adoption. Such instrument of
16 dissent shall be recorded in such county court clerk's office,
17 and upon the filing of the same the adoption shall be void.

CHAPTER 75

(House Bill No. 580—By Mr. Read, by request)

AN ACT to amend and re-enact section sixty-five of chapter forty-
six-a of the code of West Virginia, relating to delinquent and
dependent children.

[Passed April 24, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.
65. Suspension of sentence; forfeiture
of bond.

Be it enacted by the Legislature of West Virginia:

That section sixty-five of chapter forty-six-a of the code of West Virginia, relating to delinquent and dependent children, be amended and re-enacted so as to read as follows:

Suspension of Sentence for Such Offense.

Section 65. The court or judge in the case of any person found guilty by this act of contributing to the dependency of a child, may place such dependent child under the temporary custody of the board or of some responsible person or accredited institution, upon such conditions for the treatment and care of such child as may seem to be for its welfare, or may be calculated to secure obedience to the law or to remove the cause of such dependency or neglect, and while such conditions are accepted and complied with by any such person such sentence may remain suspended subject to be enforced upon the violation of any of the conditions so imposed; and any bond given for their performance may be forfeited upon a failure to comply with any such conditions, as well as upon the failure to pay any amount required for the maintenance of such child.

CHAPTER 76

(House Bill No. 159—By Mr. Keatley)

AN ACT authorizing cities, towns, counties, independent school districts and school districts to establish and conduct systems of public recreation and playgrounds.

[Passed March 20, 1925; in effect 90 days from passage. Approved by the Governor.]

<p>Sec. 1. Political divisions may establish play grounds, equip and administer same. 2. Same: may delegate administration. 3. Two or more political divisions may join in. 4. May levy for. 5. Referendum: elections; how con-</p>	<p>Sec. 6. ducted; ballot form of. Governing authorities, duties of, tax in addition and exclusive of all other taxes. 7. Governmental division may alter or repeal. 8. Act not to limit powers of certain political divisions.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That any city, town, county, independent school district or school district may establish and conduct a system of

3 public recreation and playgrounds; may set apart for such use
4 any land or buildings owned or leased by it; may acquire land,
5 buildings, and other recreational facilities by gift, purchase,
6 lease, condemnation, bond issue, or otherwise, and equip and
7 conduct the same; may employ a director of recreation and as-
8 sistants; may expend funds for the aforesaid purposes.

Sec. 2. The governing authorities establishing such system
2 may conduct the same through a department or bureau of recre-
3 ation, or may delegate the conduct thereof to a recreation board
4 created by them or to a school board or to any other appropri-
5 ate existing board or commission. If they shall decide to dele-
6 gate the conduct to a recreation board, the board shall consist of
7 five persons including representation from the school board, and
8 shall be appointed by the governing body to serve for a term of
9 five years, or until their successors are appointed, except that
10 the members of such board first appointed shall be appointed for
11 such terms that the term of one member shall expire annually
12 thereafter. Vacancies in such board occurring otherwise than
13 by expiration of term shall be for the unexpired term and shall
14 be filled in the same manner as original appointments. Members
15 of such board shall serve without pay.

Sec. 3. Any two or more cities, towns, counties, independent
2 school districts or school districts may jointly establish and con-
3 duct such a system of recreation and playgrounds and may ex-
4 ercise all the powers given by this act.

Sec. 4. Any city, town, county, independent school district,
2 or school district may levy annually for this purpose and in the
3 manner provided by law for other levies and in addition to all
4 such levies, a tax not to exceed three cents on each one hundred
5 dollars of all the real and personal property as listed for tax-
6 ation.

Sec. 5. Whenever a petition signed by legal voters of any one
2 of the above mentioned governmental divisions, equal to twenty
3 per cent of the votes polled at the last general election, if in a
4 county for governor, in a city or town for mayor, or council, or in
5 a school district for members of the board of education, as the
6 case may be, shall be filed at least thirty days prior to any
7 general or special election in the office of the clerk or other re-
8 cording officer, the authorities shall submit to the voters at the
9 said election the question of the establishment and conduct of a
10 system of public recreation and playgrounds. Such petition

11 shall request the said authorities to establish and conduct a sys-
12 tem of public recreation and playgrounds, if there be no such
13 system, or for the maintenance of an existing recreation system,
14 and to levy a specified tax, annually, for the maintenance
15 thereof, *provided*, that such tax shall not exceed three cents on
16 each one hundred dollars of the assessed valuation of property
17 subject to local taxation. The aforesaid question may also be
18 submitted at any such election by the said local authorities on
19 their own motion, their resolution specifying the tax to be voted
20 on. The election when ordered shall be conducted in all respects
21 as other elections; and the ballot shall have thereon under the
22 heading "public recreation question" the words:

23 For public recreation and playgrounds.

24 Against public recreation and playgrounds.

Sec. 6. When such proposition is adopted by a majority of
2 the qualified voters, voting on such proposition, the governing
3 authorities shall provide for the establishment and conduct of a
4 system of recreation and playgrounds, shall designate the body
5 or department to be vested with the power and duties necessary
6 to the conduct thereof, and shall provide for the levy and col-
7 lection of said tax; but such tax shall be in addition to and ex-
8 clusive of all other taxes, such governmental division may levy
9 and collect.

Sec. 7. Any governmental division can alter or repeal this
2 special tax in the same manner in which it created this tax.

Sec. 8. The provisions of this act shall not in any wise re-
2 peal, affect or limit the powers and provisions heretofore or
3 hereafter granted to any city, town, district, county, independent
4 school district or school district under the provisions of any
5 charter or by any special act or acts of the legislature, to
6 establish, maintain and conduct parks and public recreation and
7 play grounds.

CHAPTER 77

(House Bill No. 317—By Mr. Brown)

AN ACT to amend and re-enact section fifteen of chapter sixty-five
of Barnes' code of one thousand nine hundred and twenty-
three, relating to the curtesy of a married man in his wife's
estate.

[Passed March 20, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

15. Courtesy of husband.

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter sixty-five of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 15. If a married woman die seized of an estate of 2 inheritance in lands, her husband shall be tenant by the curtesy 3 in the one-third thereof. An estate by the curtesy in the lands 4 of which a married woman may hereafter die seized, shall exist 5 and be held by her husband therein, whether they had issue 6 born alive during the coverture or not.

CHAPTER 78

(House Bill No. 35—By Mr. McCrum)

AN ACT to repeal section twenty-one of chapter forty-one of the code of West Virginia, relating to the sale of work animals.

[Passed April 14, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Section repealed.

Be it enacted by the Legislature of West Virginia:

Section twenty-one of chapter forty-one of the code of West 2 Virginia is hereby repealed.

CHAPTER 79

(House Bill No. 36—By Mr. McCrum)

AN ACT to amend and re-enact section one hundred and forty-one of chapter fifty of the code of West Virginia relating to execution sales.

[Passed March 26, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

141. Execution sales and orders of sale, how conducted; appraisalment before sale.

Be it enacted by the Legislature of West Virginia:

That section one hundred and forty-one, chapter fifty, of the code be amended and re-enacted to read as follows:

Section 141. All sales on execution and orders of sale, by 2 virtue of this chapter, except as hereinafter provided, shall be 3 at public auction in the district in which the property, or the 4 greater part thereof in value, was levied on, between the hours

5 of ten in the forenoon and four in the afternoon on the day ap-
6 pointed for the sale, and at the house or on the premises where
7 the property was taken, or at one of the most public places in
8 the district. At the time and place appointed for the sale, the
9 officer or person shall sell to the highest bidder, for cash, ex-
10 cept as hereinafter provided, the property (except lawful
11 money and such bank notes as the creditor will take at their
12 nominal value) or so much thereof as may be necessary, but if
13 there be not time to complete the sale on the day appointed, it
14 may be adjourned from day to day until completed. Before
15 any such sale shall be made, if the judgment debtor, his agent
16 or attorney, or, in their absence, his wife, so desire, the prop-
17 erty to be sold shall be appraised by two disinterested house-
18 holders of the district, one to be selected by the judgment
19 debtor, his agent or attorney, or wife, as aforesaid, and the
20 other by the judgment creditor, his agent or attorney, or in
21 their absence or failure to act, by the officer who made the levy,
22 who, after being duly sworn, for the purpose, shall appraise, at
23 its fair cash value, each item of property to be sold, and reduce
24 their appraisement to writing and sign the same. If they dis-
25 agree as to the value of any such item, the officer making the
26 levy shall, on his official oath, act as umpire in the case, and his
27 decision, and that of one of said appraisers, shall deter-
28 mine the value of such item. Said appraisement shall be re-
29 turned by such officer, with the execution. Upon any such
30 property being offered for sale for cash, if no bid be made
31 therefor amounting to two-thirds of its appraised value, no sale
32 thereof shall be made for cash, if such appraised value exceed
33 five dollars, but the same shall be offered for sale, one-half on a
34 credit of four months, and the residue of eight months, the pur-
35 chaser giving his notes, with good security, bearing interest
36 from date for the purchase money. If, when so offered, a
37 greater sum be bid for such property than was offered in cash,
38 the sale shall be made on such credit; otherwise the cash bid
39 shall be received. The notes, if any, taken on such sale shall,
40 if not paid when due, be returned to the justice, who shall en-
41 dorse thereon the date of the return, and from that day they
42 shall have the force of judgments, and executions thereon may
43 be issued by the justice, on five days' notice, to the persons sign-
44 ing the same, or their personal representatives.

45 All acts or parts of acts in conflict herewith are hereby re-
46 pealed.

CHAPTER 80

(House Bill No. 289—By Mr. Read)

AN ACT to amend and re-enact section ten of chapter ninety-three of the code of West Virginia, and add thereto certain provisions relative to the return of distress warrants for rent.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.
10. Distress for rent: appeal, jurisdiction: foreign corporation, service on; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section ten of chapter ninety-three of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 10. Rent may be distrained for within one year after 2 the time it becomes due, and not afterwards, whether the lease 3 be ended or not. The distress shall be made by any sheriff or 4 constable of the county wherein the premises yielding the rent 5 or some part thereof may be, or the goods liable to distress may 6 be found, under a warrant from a justice founded upon the 7 affidavit of the person claiming the rent, or his agent, that the 8 amount of money or other thing to be distrained for (to be 9 specified in the affidavit), as he verily believes, if justly due to 10 the claimant for rent, reserved upon contract from the person 11 of whom it is claimed. If said rent does not amount to more 12 than three hundred dollars, exclusive of interest, the said war- 13 rant shall be returnable in not less than five nor more than ten 14 days for trial before the justice issuing the same, and which 15 trial shall be held in accordance with the statute governing the 16 trial of civil cases before a justice of the peace, with the right 17 of appeal to the circuit court as in other civil cases.

18 If the rent claimed to be due exceeds the sum of three hun- 19 dred dollars, said warrant shall be made by the justice, return- 20 able to the next regular term of the circuit court of the county 21 in which the property for which the rent is claimed is situated. 22 When said warrant is filed with the clerk of such circuit court 23 he shall forthwith mark the same filed and docket the trial of 24 all issues arising thereon, for hearing and trial at the following 25 regular term of his court. And the defendant may make such 26 defense, legal or equitable, to said distress warrant as he could 27 have made if an action at law had been brought on said demand

28 for rent, and the right of appeal shall lie to the supreme court of
29 appeals of this state as in other civil cases and actions at law.
30 *Provided*, that service on any foreign corporation in such pro-
31 ceeding may be had by delivering to the auditor of this state
32 a copy of such warrant in person, or by mailing such copy to
33 him, five days before the day set for trial of any such pro-
34 ceeding.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 81

(House Bill No. 369—By Mr. Armstrong)

AN ACT to amend and re-enact section six of chapter one hundred and twenty-one of Barnes' code of one thousand nine hundred and sixteen of West Virginia, relating to motions for judgment for moneys due on contract, and to provide for sworn pleadings in connection with such proceedings.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.
6. Relating to motions for judgment
for moneys due on contract; pro-
cedure: clerk may docket.

Be it enacted by the Legislature of West Virginia:

That section six of chapter one hundred and twenty-one of Barnes' code, one thousand nine hundred and sixteen, of West Virginia, be amended and re-enacted so as to read as follows:

Section 6. Any person entitled to recover money by action
2 on any contract may, on motion before any court which would
3 have jurisdiction in an action, otherwise than under the second
4 section of the one hundred and twenty-third chapter of this
5 code, obtain judgment for such money after twenty days'
6 notice, which notice shall be returned to the clerk's office of
7 such court fifteen days before the motion is heard. Such
8 motion may be commenced and matured during the term of
9 said court and may be heard at the same term; *provided*, said
10 term continues for a period of twenty days after the service
11 of said notice. However, if the court be not in session on the
12 return day as set out in said notice, and the term of court

13 be not adjourned, the said motion shall be considered con-
14 tinued until the next court day of said term, and if said term
15 be adjourned, then said motion shall stand continued until
16 the first day of the next regular term of said court. In any
17 such motion, if the plaintiff shall file with his notice, and shall
18 serve upon the defendant at the same time and in the same
19 manner as the notice is served, an affidavit by himself, or his
20 agent, stating distinctly the several items of the plaintiff's
21 claim, and that there is, as the affiant verily believes, due and
22 unpaid from the defendant to the plaintiff upon the demand
23 or demands stated in the notice, including principal and in-
24 terest, after deducting all payments, credits and set-off made
25 by the defendant, or to which he is entitled, a sum certain to be
26 named in the affidavit, no plea shall be filed in the case unless
27 the defendant shall file with his plea the affidavit of himself,
28 or his agent, that there is not, as the affiant verily believes,
29 any sum due by the defendant to the plaintiff upon the de-
30 mand or demands stated in the plaintiff's notice, or stating
31 a sum certain less than that stated in the affidavit filed by
32 the plaintiff, which, as the defendant, or his agent, verily be-
33 lieves, is all that is due from the defendant to the plaintiff
34 upon the demand or demands stated in the plaintiff's notice.
35 If such plea and affidavit be filed by the defendant and it be
36 admitted in such affidavit that any such sum is due from the
37 defendant to the plaintiff, judgment may be taken by the
38 plaintiff for the sum so admitted to be due, with interest
39 thereon from the date of the plaintiff's affidavit until paid,
40 and the case tried as to the residue.

41 The clerk shall docket, upon the return day thereof, any
42 motion under this section filed after the commencement of
43 the term. Such motion, as well as motions under this sec-
44 tion, which are docketed under the first section of chapter
45 one hundred and thirty-one of this code shall not be discon-
46 tinued by reason of no order docketing the same upon the re-
47 turn day thereof, or of no order of continuance being entered
48 in it from one day to another or from term to term.

49 All acts and parts of acts inconsistent herewith are hereby
50 repealed.

CHAPTER 82

(House Bill No. 186—By Mr. McColloch, by request)

AN ACT authorizing county courts of any county in West Virginia to co-operate with the state department of agriculture and the United States department of agriculture in the control and eradication of bovine tuberculosis, or any contagious, communicable, or infectious diseases of live stock, and creating modified accredited areas.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. County court may levy for eradication of diseases of live stock; creating accredited areas.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county in West Virginia is hereby authorized to levy for and appropriate, money from general funds to co-operate with the commissioner of agriculture and the United States department of agriculture, in the control and eradication of bovine tuberculosis, or any other contagious, infectious, or communicable diseases of live stock, and creating modified accredited free areas.

All acts or parts of acts conflicting with this act are hereby repealed.

CHAPTER 83

(House Bill No. 199—By Mr. King)

AN ACT for the protection of sheep, lambs, goats, kids and other property and providing compensation to the owner for the destruction, loss or injury by dogs for any sheep, lambs, goats, kids and other property and providing for damages to persons by dogs and also providing for taxation and protection of dogs and making dogs property and fixing punishment for any violation of this act.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Dogs taxable; assessors, duties of; administration; dogs may become personal property; tax a fund for compensation for loss of sheep, etc.
2. Dogs protected by law; penalty for unlawfully killing; aggrieved owners' remedy.
3. Further administration.
4. Dogs, when same shall be killed.

Sec.

5. Owner liable for damages, when; penalty.
6. Dogs, unnaturalized foreign-born resident shall not own or harbor; penalty.
7. Damages, how assessed and collected; appraisers, compensation of; owner liable. Surplus funds paid into teachers' fund. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Any dog above the age of eight months shall be
2 subject to taxation and shall be and is hereby declared to be
3 personal property within the meaning and construction of the
4 laws of West Virginia.

5 It shall be and is hereby made the duty of the county assessor
6 and his deputies and the assessors of all counties within the
7 state of West Virginia, at the time they are making assessment
8 of the personal property within their respective counties to
9 assess and collect a head tax of one dollar on each male dog and
10 two dollars on each female dog found within his jurisdiction,
11 and in the event that the owner, keeper or person having in his
12 possession or allowing to remain on any premises under his
13 control any dog above the age of eight months, shall refuse or
14 fail to pay said tax, when the same is assessed, or within fifteen
15 days thereafter, to the assessor or deputy assessor, then such
16 assessor or deputy assessor shall certify the said tax to the
17 sheriff of his county who shall take charge of the dog for which
18 the tax is delinquent and impound the same for a period of
19 fifteen days, for which service he shall be allowed a fee of one
20 dollar and fifty cents to be charged against such delinquent
21 dog taxpayer in addition to the other taxes herein provided.
22 In case the tax of one dollar and the impounding charge herein
23 provided for shall not have been paid within the period of
24 fifteen days, then the sheriff may sell the impounded dog and
25 charge the amount received therefor against the impounding
26 charge and the delinquent tax. Should the sheriff fail to sell
27 the dog so impounded within the time specified herein he shall
28 kill the said dog and dispose of its body. In addition to this
29 head tax on dogs, the owner of any dog above the age of eight
30 months may and shall be permitted to place a value upon
31 any dog owned by him and have such dog assessed as other per-
32 sonal property. The assessor collecting the head dog tax shall
33 be allowed a commission of ten per cent upon all dog taxes col-
34 lected by him and shall turn in to the county treasurer ninety
35 per cent of such dog taxes collected by him, which shall be
36 credited to the fund for the compensation of persons who have
37 suffered loss or damage on account of the destruction, loss or
38 injury by dogs of any sheep, lamb, goat or kid, and claims for
39 such loss or damage shall be presented to and allowed, when

40 satisfactorily proven, by the county court, and the said court
41 shall issue drafts, payable out of said fund, in settlement of said
42 claims, together with the compensation allowed to the assessor
43 for killing and burying dogs, when said claims cannot be by
44 law collected from the person hereinbefore designated as the
45 delinquent tax payer. Any person or party suffering loss or
46 damage on account of the destruction, loss or injury by dogs
47 of any such sheep, lamb, goat or kid, as herein specified, shall
48 have a right of action in any court of law, or justice's court,
49 having jurisdiction in such matters, against the owner, possessor,
50 keeper or person permitting any dog to remain upon premises
51 under his control, for the recovery of the entire loss or damage
52 sustained by such party suffering such loss or damage, which
53 remedy shall be pursued by persons suffering loss or damage
54 on such account; *provided*, the person liable for such loss or
55 damage can be ascertained and is financially responsible for
56 the amount sued for in excess of all exemption. And if such
57 person suffering such loss or damage cannot ascertain the
58 responsible party, or such party liable is not financially re-
59 sponsible, then such person suffering such loss or damage may
60 file his claim with, and prove same before, the county court of
61 said county in which such loss or damage is sustained and the
62 court shall pay such loss or damage out of the fund provided
63 for such purposes and according to the provisions of this act.

Sec. 2. Any dog upon which taxes are paid, as herein pro-
2 vided, and which is kept and controlled as herein required, shall
3 be protected by law, and any person who shall unlawfully kill
4 or injure, administer poison to or knowingly expose the same so
5 that it shall be taken by any such dog or shall in any other
6 manner, intentionally and unlawfully cause the death or injury
7 of any such dog shall be guilty of a misdemeanor and if such
8 dog be of the assessed value of more than twenty dollars, shall,
9 upon conviction be imprisoned in the county jail at hard labor,
10 for a period not in excess of twelve months or fined not in
11 excess of two hundred dollars, either or both in the discretion
12 of the court ;and if such dog be of twenty dollars or less in
13 assessed value, he shall be imprisoned in the county jail at hard
14 labor for a period not in excess of six months, or fined not in
15 excess of fifty dollars, either or both, in the discretion of the
16 court. And any person whose dog shall be killed wrongfully
17 and unlawfully by any other person shall have a right of

18 action against the person liable for the wrongful death of such
19 dog, but in no such case can a recovery be had in excess of the
20 assessed value of such dog. And in no case can a recovery be
21 had if either the head or the property tax against such dog be
22 delinquent at the time such dog may have been killed or injured.
23 And it shall be, and is hereby made the duty of all sheriffs,
24 deputy sheriffs, justices, constables, police officers and state
25 policemen to aid in the enforcement of the provisions of this
26 act, and for each such dog killed and buried by any such officer
27 or other person, or at his expense, he shall be paid the sum
28 of one dollar, to be paid by the person liable to pay taxes upon
29 such dog, if the same is collectible and if said fee of one dollar
30 cannot be collected from said person liable therefor, then in
31 that event the same shall be paid by the county court, upon
32 satisfactory proof that the same is due, out of the fund herein
33 provided for.

Sec. 3. And all taxes on dogs not collected by the assessor
2 shall be collected by the regular tax collecting officer of the
3 county and placed to the credit of the fund for the compensation
4 of persons who have suffered loss or damage on account of
5 the destruction, loss or injury by dogs of any sheep, lamb, goat
6 or kid in the same manner as other taxes are collected and placed
7 to the credit of the different funds.

Sec. 4. Any dog which may be found killing, wounding,
2 worrying or chasing any sheep, lamb, goat or kid outside the
3 enclosed premises of the owner or keeper of such dog, unless
4 such dog be acting under the direction of the owner of such
5 sheep, lambs, goats or kids, shall be killed immediately by the
6 owner of such dog or other person who may be a witness to the
7 killing, wounding, worrying or chasing any such sheep, lamb,
8 goat or kid, as hereinabove provided, and if each and all per-
9 sons authorized under this section, to kill such dog, fail to do
10 so at once, then, in that event, the owner of such sheep, lamb,
11 goat or kid, or any other person may file complaint before any
12 justice of the county charging such dog with killing, wounding,
13 worrying or chasing sheep, lambs, goats or kids, and it shall
14 be the duty of the justice before whom such complaint is made,
15 to immediately summon the owner or keeper of such dog to
16 answer said complaint and if said justice upon the hearing shall
17 find that such dog was guilty as in the complaint alleged, he
18 shall forthwith order the sheriff or any constable of his county

19 to kill said dog and to bury him, for which service the said
20 sheriff or constable shall be allowed a fee of one dollar and the
21 owner of such dog shall be liable for all costs before said justice,
22 on such complaint, including the fee of the sheriff or constable
23 for killing and burying such dog.

Sec. 5. Any owner or keeper of any dog desig-
2 nated in section four of this act allowing such dog to
3 run at large shall be liable for any damages inflicted upon the
4 person or property of another by such dog while so running at
5 large. And any person who shall hide, conceal or secrete any
6 taxable dog or refuse to disclose to the assessor or other officer
7 herein required to enforce the provisions of this act, the loca-
8 tion or whereabouts of any such dog, shall be guilty of a mis-
9 demeanor and punished by confinement in the county jail at
10 hard labor for a period not in excess of sixty days, and by pay-
11 ment of a fine not in excess of one hundred dollars, either or
12 both, in the discretion of the court or justice trying the case.

Sec. 6. It shall be unlawful for any unnaturalized foreign-
2 born resident of this state to own, keep or permit to remain
3 upon any premises under his control a dog of any kind within
4 this state, and any person violating this section shall be guilty
5 of a misdemeanor and upon conviction thereof, before any court
6 or justice of the peace having jurisdiction of the offense, shall
7 be imprisoned in the county jail at hard labor not in excess
8 of sixty days and fined not in excess of one hundred dollars,
9 either or both, in the discretion of the court or justice trying
10 the same.

Sec. 7. Authority is hereby given to justices of the peace and
2 notaries public within this state, and within their respective
3 jurisdictions, to summon three substantial, upright and worthy
4 *bona fide* residents, citizens and taxpayers of his county to
5 assess the damages suffered by any person on account of the
6 destruction, loss or injury of any sheep, lambs, goats or kids by
7 dogs within the county. Such appraisers shall be appointed
8 upon the request of any person suffering damages on account of
9 such destruction, loss or injury, and shall go upon the ground
10 and investigate fully the extent of such destruction, loss or
11 injury, taking all the evidence deemed necessary to arrive at
12 the facts to be passed upon in arriving at the amount of damage,
13 if any, suffered by the party making the complaint, which said
14 complainant shall be required to make a sworn complaint before

15 such justice or notary public, setting out in plain, easily com-
16 prehended terms the facts concerning his damage to the best
17 of his knowledge before said appraisers may be summoned by
18 such justice or notary public. And after making a full investi-
19 gation of the facts involved, said appraisers, with the assistance
20 of such justice or notary public, shall make a sworn statement
21 and report the facts ascertained and the damages suffered, which
22 report and statement shall be filed with the county court or the
23 clerk thereof in vacation. The fees and mileage for services
24 allowed in such cases shall be the same as are allowed justices,
25 witnesses and arbitrators in justices' courts in this state for
26 similar services. And in the event that such appraisers find
27 that the complainant has suffered no damage, then said com-
28 plainant shall be responsible for and pay all the costs and
29 expenses of such proceeding, and in the event that such com-
30 plainant has suffered damages on account of the destruction,
31 loss or injury of any such domestic animals, according to the
32 finding of such appraisers, then in such event the owner, keeper
33 or person permitting the dog, or dogs, causing such damage to
34 remain upon premises under his control shall be liable for all
35 damage sustained by the complainant, including all costs and
36 necessary expenses, all of which shall be collectible by an action
37 at law before any court or justice having jurisdiction of the
38 matter. All papers in connection with any such claim shall
39 be filed and preserved in the office of the clerk of the county
40 court and the said court may, if it deem such action advisable,
41 recover from such originally liable person the amount paid out
42 by it on such claim, costs and expenses, by proper action at
43 law before any court or justice of the peace having jurisdiction
44 thereof.

45 Any surplus funds remaining unexpended and not needed
46 for the payment and satisfaction of claims and expenses arising
47 under the provisions of this act shall be annually paid into and
48 credited to the teachers' funds of the different magisterial and
49 independent school districts of the county in proportion to the
50 school population of each. But the funds thus used shall be
51 in amount deemed proper and safe in the judgment and dis-
52 cretion of the county court.

All acts and parts of acts in conflict or inconsistent herewith
are hereby repealed.

CHAPTER 84

(House Bill No. 684—By Mr. Smith, of Berkeley)

AN ACT providing for the control and eradication of the plant disease commonly known as "apple rust" in the several counties of this state.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.	Sec.
1. Red cedar trees, nuisance; owner to destroy.	6. Entomologist, duties of; hindering or obstructing a misdemeanor; penalty for.
2. State entomologist, duty; owner's duty.	7. Aggrieved owner may appeal; manner of appeal.
3. Ornamental trees, remedy to save; owner's instructions, penalty for failure to follow.	8. Damages paid by court, how recovered, fund to be kept intact by levy.
4. Notice, how served.	9. County court, levy by.
5. Trees to be destroyed, when.	

Be it enacted by the Legislature of West Virginia:

Section 1. That it shall hereafter be unlawful within this state for any person, firm or corporation, to own or keep alive and standing upon his or its premises, any red cedar tree, or trees, which are or may be the source for the communicable plant disease commonly known as "rust," of the apple, and any such cedar trees when growing within a radius of three miles of any apple orchard in this state, are hereby declared a public nuisance and shall be destroyed as hereinafter provided, and it shall be the duty of any owner or owners of any such cedar trees to destroy the same as soon as he or they are directed to do so by the state entomologist, as hereinafter provided.

Sec. 2. In any county in this state where the above mentioned disease exists, or there is reason to believe it exists, it shall be the duty of the state entomologist, in person or by an assistant, upon the request in writing of ten or more reputable freeholders of any county, to make a preliminary examination and investigation of the locality from which said request may be received, to ascertain if any red cedar tree or trees in said locality are the source of, harbor or constitute the host plant for the said disease known as "rust of the apple," and constitute a menace to the health of any apple orchard in said locality, and that said cedar tree or trees exist within a radius of three miles of any apple orchard in said locality. If upon said preliminary investigation of said locality from which said request is received it shall appear that there are cedar trees which constitute the source, harbor or host plant of said disease, and that said cedar tree or trees exist within a radius of three miles of any apple

17 orchard or orchards in said locality and constitute a menace to
18 the health of said apple orchard or orchards, the state entomolo-
19 gist or his assistant, shall give notice in writing to the owner or
20 owners of said cedar trees to destroy the same; such notice shall
21 contain a brief statement of the facts found to exist whereby and
22 because of which it is deemed necessary or proper to destroy
23 said cedar tree or trees and call attention to the law under which
24 it is proposed to destroy the same, and the owner or owners
25 shall, within such time as may be prescribed in such notice, not
26 to exceed sixty days, cut down and destroy said cedar tree or
27 trees.

Sec. 3. If, however, it is, in the judgment of the state ento-
2 mologist, practical to treat any such cedar tree or trees,
3 especially ornamental trees in door yards, grave yards, ceme-
4 teries and parks, which have been declared, as aforesaid, to con-
5 stitute a menace to any apple orchard in said locality, in such
6 a way as to render it or them harmless, he may direct such
7 treatment to be carried out by the owner under the direction of
8 any agent he may appoint for that purpose. Said directions for
9 treatment shall be put in writing by the state entomologist and
10 a copy thereof placed in the hands of the owner of said tree or
11 trees. Any owner undertaking to so treat said tree or trees and
12 failing or refusing to carry out said written directions, shall be
13 guilty of a misdemeanor and upon conviction thereof before any
14 justice of the peace of said county shall be fined not less than
15 ten or more than one hundred dollars for each of said offenses.

Sec. 4. The notice required under section two hereof and
2 section five hereof may be served upon the owner or owners
3 of said tree or trees if a resident of this state in the same man-
4 ner as is provided by law for the service of like process in this
5 state, or if such owner or owners be not resident of this state,
6 by serving said notice, in like manner upon his tenant or
7 other person having charge of his said premises.

Sec. 5. Whenever the owner or owners of said cedar tree or
2 trees refuse or neglect to cut down and destroy the same within
3 the time specified in the notice given by the state entomologist
4 as prescribed by section two of this act, it shall be the duty of
5 the state entomologist to cause said trees to be at once cut
6 down and destroyed and the necessary expense thereof shall be
7 paid by the county court of said county out of the general fund

8 of the county upon a warrant drawn by the state entomologist,
9 said fund to be reimbursed for such payment or payments as
10 provided in section eight hereof.

Sec. 6. The state entomologist, his assistant or employees,
2 are empowered with authority to enter upon any public or pri-
3 vate premises for the purpose of carrying out the provisions
4 of this act. Any person or persons who shall hinder or obstruct
5 the state entomologist, his assistant, agents or employees, in
6 the discharge of their duties under this act, shall be deemed
7 guilty of a misdemeanor and upon conviction thereof before
8 any justice of said county, shall be fined not less than ten nor
9 more than one hundred dollars for each offense.

Sec. 7. Any owner or owners feeling aggrieved because of
2 the destruction of any cedar tree or trees in accordance with
3 the provisions of this act, shall have the right of appeal to the
4 circuit court of said county in which his said property is
5 located, *provided* said appeal shall be taken within fifteen days
6 from the date of the destruction of his said cedar tree or trees.
7 Notice in writing of such appeal must be filed with the clerk
8 of said court who shall forthwith transmit a copy thereof to
9 the state entomologist. Upon the hearing of said matter in the
10 circuit court, should it be determined that the owner of said
11 cedar tree or trees, has been damaged because of any action of
12 the state entomologist under and by authority of this act, the
13 amount thereof, together with the costs of said proceeding,
14 shall be paid out of the general fund of the said county, upon
15 an order duly entered by said circuit court.

Sec. 8. Whenever the said circuit court shall order any
2 damages paid out of the general fund of the county under the
3 preceding section, seven, and such amount as may have been
4 paid out of the county fund under section five of this act, the
5 said county fund shall be reimbursed by a specific levy, made
6 by the county court of said county at the commencement of its
7 next ensuing fiscal year, of not exceeding one dollar per acre
8 on all apple orchards in said county, planted ten years or more,
9 and not exceeding fifty cents per acre on apple orchards
10 planted more than two years and less than ten years, and it
11 shall be the duty of the assessor of said county to list all the
12 apple orchards in said county, giving the name or names of
13 the owner or owners thereof, the acreage of apple orchard owned
14 by same which has been planted more than ten years and the

15 acreage of apple orchard owned by same which have been
 16 planted more than two years and less than ten years, and the
 17 said levy above provided shall be collected in accordance with
 18 the provision of law for the collection of state and county taxes,
 19 and the said county court, in fixing the amount of said specific
 20 levy shall fix such amount per acre as will, in the aggregate,
 21 net the amount necessary to reimburse the said county for all
 22 damages and costs previously paid out under the provisions of
 23 this act.

Sec. 9. The amount of said specific levy so fixed by said
 2 county court upon apple orchards planted more than two years
 3 and less than ten years shall be one-half the amount fixed by
 4 said court upon apple orchards planted more than ten years.

CHAPTER 85

(House Bill No. 81—By Mr. Cullen)

AN ACT amending and re-enacting section fourteen of chapter
 three of Barnes' code of one thousand nine hundred and
 twenty-three, acts of one thousand eight hundred and ninety-
 one, relating to the opening and closing of the polls on elec-
 tion day.

[Passed April 14, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.
 14. Time for opening and closing polls.

Be it enacted by the Legislature of West Virginia:

Section 14. At every election the polls shall be opened on the
 2 day of election at six thirty o'clock a. m., and close at thirty
 3 minutes after six p. m., eastern standard time.

All acts and parts of acts inconsistent herewith are hereby
 repealed.

CHAPTER 86

(House Bill No. 141—By Mr. Edwards)

AN ACT to amend and re-enact sections fifteen and sixteen of chap-
 ter fifty-three of the code of West Virginia relating to common,
 preferred and no par value stock of corporations.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

<p>15. Corporations may issue non-par stock; regulations regarding.</p> <p>16. Certificate of incorporation may au-</p>		<p>thorize issuance of preferred stock.</p>
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Be it enacted by the Legislature of West Virginia:

That sections fifteen and sixteen of chapter fifty-three of the code of West Virginia relating to common, preferred and no par value stock of corporations be amended and re-enacted so as to read as follows:

Section 15. The capital stock shall be divided into shares of 2 such amount each as may be prescribed by the charter of incor- 3 poration. Any corporation, except banks, savings banks, bank- 4 ing associations, trust, fidelity, surety, guaranty, bonding, in- 5 surance and title companies, building and loan associations, rail- 6 road, mutual investment associations, mortgage companies, 7 mortgage and discount companies, may, if so provided in its 8 charter, issue shares of stock of any one or more classes without 9 any nominal or par value. Each share of stock, whether having 10 a par value or no par value, shall be equal to each other share 11 of stock in the same class, and the agreement of incorporation, 12 and the certificate of incorporation issued by the secretary of 13 state, or the stockholders in general meeting by a resolution, or 14 by by-laws, may provide for or authorize the issuance of non par 15 value stock on such terms and conditions, and with or without 16 the right to vote in stockholders' meetings and with such other 17 regulations as the stockholders may deem proper or as may be 18 named in the agreement of incorporation and the certificate of 19 incorporation.

Sec. 16. The agreement of incorporation and the certificate 2 of incorporation issued by the secretary of state, or the stock- 3 holders in general meeting, by a resolution or by-law, may pro- 4 vide for or authorize the issuing of preferred stock on such 5 terms and conditions, and with or without the right to vote in 6 stockholders' meeting, and with such other regulations respect- 7 ing the preference to be given such stock over the other stock 8 in relation to future dividends, or otherwise, as the stockholders 9 may deem proper, or as may be named in the agreement of in- 10 corporation; *provided*, that the maximum capital of the corpo- 11 ration shall not be exceeded, and that unless the issue be pro- 12 vided for or authorized by the agreement of incorporation and 13 the certificate of incorporation, or an amendment thereto,

14 notice shall be first published at least once a week for two weeks
15 successively in some newspaper of general circulation, pub-
16 lished in the county wherein the principal office or place of
17 business of the corporation may be, of the intention to offer such
18 resolution or by-law, or if the principal office or place of busi-
19 ness of such corporation be not in this state, then such notice
20 may be published at the capital of the state; and, *provided*,
21 *further*, that such resolution may be adopted without such
22 notice being published if the meeting at which it be adopted be
23 assented to in writing by all the stockholders of the corporation
24 at the time or before the meeting is held.

CHAPTER 87

(House Bill No. 146—By Mr. Mathews)

AN ACT to amend and re-enact section one of chapter seventy-six of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-one. (being section eighty of chapter fifteen-h of Barnes' West Virginia code, one thousand nine hundred and twenty-three) relating to the payment of laborer's wages in anything other than lawful money, and in relation to the rates of goods and supplies to laborers by their employers at excessive prices.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Wages, if in scrip or check, how redeemed; penalty.

Be it enacted by the Legislature of West Virginia:

That section one of chapter seventy-six of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-one (being section eighty of chapter fifteen-h of Barnes' West Virginia code, annotated of one thousand nine hundred and twenty-three) be amended and re-enacted so as to read as follows:

Section 1. It shall be unlawful for any corporation, company, firm or person, engaged in any trade or business, either directly or indirectly, to issue, sell, give or deliver, to any person employed by such corporation, company, firm or person, in payment of wages due such laborer, or as advances for labor not due, any scrip, token, draft, check, or other

7 evidence of indebtedness, payable or redeemable otherwise
8 than in lawful money; and if any such scrip, token, draft, check,
9 or other evidence of indebtedness, be so issued, sold, given or
10 delivered to such laborer, it shall be construed, taken and held
11 in all courts and places, to be a promise to pay the sum speci-
12 fied therein in lawful money by the corporation, company, firm
13 or person, issuing, selling, giving or delivering the same to
14 the person named therein, or to the holder thereof. And the
15 corporation, company, firm or person so issuing, selling, giving
16 or delivering the same, shall, moreover, be guilty of a misde-
17 meanor, and, upon conviction thereof, shall be fined not less
18 than twenty-five dollars, nor more than one hundred dollars,
19 and, at the discretion of the court, the officer or agent of the
20 corporation, company, or firm, or the person issuing, selling,
21 giving or delivering the same, may be imprisoned not less than
22 ten, nor more than thirty days; *provided*, that any such cor-
23 poration, company, firm, person, or association, engaged in any
24 of the businesses aforesaid, at other times than at the regular
25 pay day settlements, upon the faith and to credit of labor to
26 be performed but not to be paid for under the contract of
27 hiring until a future date, may, in payment or part payment
28 therefor, upon request of any employee, issue to such employee,
29 non-transferable orders upon himself or itself, or upon another.
30 payable in merchandise only; or non-transferable coupons or
31 tokens payable and redeemable in merchandise only; *provided*
32 *further*, that it be shown upon the face of said order that such
33 employer agrees to pay the employee in lawful money of the
34 United States or by check the unused portion or part, if any,
35 of such order in possession of the holder, or the unused coupons
36 or tokens, if any, of such holder, in his possession, upon demand
37 and surrender thereof by him at such regular settlement day or
38 pay days according to the issuance thereof when the same would
39 be due in cash had not said order or token been issued.

CHAPTER 88

(House Bill No. 441—By Mr. Tutwiler)

AN ACT to amend and re-enact chapter ten of the acts of one thousand nine hundred and fifteen, amending and re-enacting chapter seventy-eight of the acts of one thousand nine hundred and seven, creating the department of mines and redistricting the state into mining districts for the purpose of inspection.

[Passed April 22, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.		Sec.	
1.	Department of mines created; scope.	36.	Electric haulage not permitted, when.
2.	Chief appointed, how; tenure.	37.	Electric coal cutting machines; requirements as to person in charge.
3.	Same: oath; vacancies, how filled.	38.	Same: not to be used in gaseous portion.
4.	Same: qualifications; salary.	39.	Same: limit to use until examination is made.
5.	Same: duties.	40.	Same: examination every half hour.
6.	Same: duties, continued.	41.	Duties of machine men.
7.	Districts and inspectors.	42.	Fire boss, in what mines to be installed; qualifications; duties.
8.	Inspectors; qualification and duties; tenure; how removed: salary.	43.	Same: further duties.
9.	Same: oath of.	44.	Same: written record.
10.	Same: duties.	45.	Same: no superior officers.
11.	Mine maps furnished.	46.	Unlawful to enter mine until signal is right; penalty.
12.	Same: neglect or failure to furnish.	47.	Mine foreman, duties of; qualification; assistants.
13.	Ventilation; fans; operated day and night; plans to be approved by chief; air, how circulated; break throughs; number to work in same air current; quantity of air; motive power; what not to be used; explosive gas, air per person; stoppings, how constructed; other construction, safeguards for abandoned parts; notices posted.	48.	Same: further duties.
14.	Coal dust to be removed; dusty sections watered down.	49.	Same: further duties.
15.	Telephone and other safety devices.	50.	Same further duties; safety regulations.
16.	Uniform checking system.	51.	Same: further duties.
17.	Drum runners, requirements; cage or in car load.	52.	Mine foreman and assistants, further duties.
18.	First aid equipment.	53.	Mine foreman and assistants, further duties.
19.	Safety appliances; unsafe mine to be closed; reopened, how.	54.	Mine foreman, duties in mine liberating explosive gas.
20.	Locked safety or electric lamps required, when; operator to furnish.	55.	Mine foreman, removal of all danger; examination and record of condition of dangerous places.
21.	Communication between outlets; distance apart; roadways kept free from obstructions.	56.	Mine foreman to be furnished necessary supplies to meet requirements.
22.	Operator's report, what to contain.	57.	Mine foreman to sign reports.
23.	Solid shooting may be done, when.	58.	Successor to mine foreman in case of death or resignation.
24.	Regulations as to steam locomotives.	59.	Explosives, quantity and how taken into mine.
25.	Special rules to be posted, how; where.	60.	Examination of roof and conditions of working place.
26.	No action permitted to endanger security of mine; right of search for intoxicants, matches, etc.	61.	Regulations as to props, cap pieces and timbers.
27.	Intimidation of workmen.	62.	Places liberating explosive gas to be examined before shot is fired.
28.	Explosion or accident, duties of superintendent in case of.	63.	Regulations as to explosives.
29.	Stable inside of mine, regulations for.	64.	Who may ride on trip or car.
30.	Magazines, where located.	65.	Motormen and trip riders; duties of.
31.	Electricity.	66.	Accidents to be reported by operator or agent.
32.	Protection on haulage roads.	67.	Notifying chief on discovery of fire.
33.	Insulation of feed wires.	68.	Penalty for violation of written instructions.
34.	Trolley and feed wires, regulations.	69.	Mining experiment station established.
35.	Power wires and cables, regulations.	70.	Definitions.
		71.	Penalties; inconsistent laws repealed.

Be it enacted by the Legislature of West Virginia:

That chapter ten of the acts of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 1. There is hereby created an executive department
 2 to be known as the department of mines, which shall have for
 3 its purpose the supervision of the execution and enforcement
 4 of all state laws pertaining to the inspection of mines, hereto-

5 fore and hereafter enacted for the safety of persons employed
6 within or at the mines within this state, and the protection of
7 mine property and other property used and in connection
8 therewith; and the said department of mines shall be in charge
9 of an official to be known as the chief of the department of
10 mines, who shall have full charge of said department, and who
11 shall superintend and direct the inspection of mines as herein
12 provided and as provided by any other state law not in con-
13 flict with this act.

Sec. 2. On or before January first, one thousand nine hun-
2 dred and twenty-six, the governor shall, with the consent of
3 the senate, appoint a chief of the department of mines, who
4 shall continue in office until December thirty-first, one thousand
5 nine hundred and twenty-nine, or until his successor shall be
6 duly appointed and qualified, unless sooner removed as pro-
7 vided by law, and the governor shall, with the consent of the
8 senate, each four years thereafter, appoint a chief of the depart-
9 ment of mines for the term of four years, or until his successor
10 be appointed and qualified. The present incumbent shall con-
11 tinue in office until December thirty-first, one thousand nine
12 hundred and twenty-five, unless sooner removed as provided by
13 law.

Sec. 3. The chief of the department of mines shall before
2 entering upon the discharge of his duties take the oath of office
3 prescribed by the constitution and shall furnish bond in the
4 sum of two thousand dollars, with security to be approved by
5 the governor, conditioned upon the faithful discharge of his
6 duty, a certificate of which oath and which bond shall be filed
7 in the office of the secretary of state. Vacancies in the office
8 of the chief of the department of mines shall be filled by ap-
9 pointment for the unexpired term.

Sec. 4. The chief of the department of mines shall be a
2 male citizen of West Virginia, and shall be a competent person,
3 having had at least eight years experience in the working, ven-
4 tilation and drainage of coal mines, two years of which having
5 been in this state, and having a practicable and scientific knowl-
6 edge of all noxious and dangerous gases found in such mines.
7 A diploma from any accredited engineering school shall qualify
8 as two years working experience. He shall devote all of his
9 time to the duties of his office, and shall not be directly or
10 indirectly interested in a financial way in any coal mines in

11 this state. The salary of the chief of the department of mines
12 shall be six thousand dollars per annum, and traveling ex-
13 penses, which shall be paid monthly out of the state treasury
14 upon a requisition upon the state auditor, properly certified by
15 the chief of the department of mines.

Sec. 5. The chief of the department of mines shall keep a
2 record of all inspections made by himself and the district mine
3 inspectors, which shall be a permanent record properly in-
4 dexed; records of the department of mines shall, at all times,
5 be open to the inspection of any citizen of this state, and shall
6 be laid before the governor of the state upon his request at any
7 time. The chief of the department of mines shall have author-
8 ity to visit, enter and examine any mine and may call the
9 assistance of any district mine inspector, or inspectors to any
10 mine.

Sec. 6. The chief of the department of mines shall annually
2 make a full and complete written report of his proceedings to
3 the governor of the state for the year ending the thirty-first
4 day of December; such report shall include the reports of the
5 district mine inspectors; the number of visits and inspections
6 made in the state by the district inspectors, the quantity of
7 coal and coke produced in the state, the number of men em-
8 ployed, number of mines operated, ovens in and out of blast,
9 improvements made, prosecutions, etc., and such other infor-
10 mation in relation to the subject of mines, mining inspections
11 and needed legislation as he may deem of public interest and
12 beneficial to the mining interests of the state; such report shall
13 be filed with the governor on or before the thirtieth day of
14 June next succeeding the year for which it was made, and such
15 report shall be printed upon the requisition of the governor,
16 in order that the report shall be annually printed and dis-
17 tributed among the operators, miners and citizens of the state.

Mining Districts and Inspectors

Sec. 7. As soon as practicable after this act becomes a law,
2 the chief of the department of mines, by and with the approval
3 of the governor, shall divide the state into twenty-five mining
4 districts, in such manner as to equalize as far as practicable
5 the work of each inspector. The chief of the department of
6 mines shall appoint one inspector for each mining district
7 within the state, whose term of office shall expire the thirty-

8 first day of December, one thousand nine hundred and twenty-
9 five, unless sooner removed as provided by law; and he shall
10 direct and prescribe in which of said districts each of the said
11 inspectors shall serve. After December thirty-first, one thou-
12 sand nine hundred and twenty-five, appointments of all inspec-
13 tors shall be for a term of four years, except those appointments
14 made to fill out unexpired terms.

Qualifications and Duties of Inspectors

Sec. 8. Every person appointed to the office of district mine
2 inspector shall be a citizen of West Virginia, having a practical
3 knowledge of mining and the proper ventilation and drainage
4 of mines, and a knowledge of the gases met with in coal mines,
5 and must be a miner of at least six years experience in coal
6 mines; a diploma from any accredited school of engineering
7 shall qualify as two years experience, or having otherwise been
8 engaged as an employee for six years within coal mines, and
9 he shall not while in office be interested as owner, operator,
10 stockholder, superintendent or engineer of any coal mine, and
11 he shall be of good moral character and temperate habits. His
12 term of office shall expire on December thirty-first, one thou-
13 sand nine hundred and twenty-five, or when his successor is
14 appointed and qualified, unless sooner removed as provided by
15 law. An inspector of mines shall be removed from office by the
16 chief of the department of mines for incompetency, neglect of
17 duty, drunkenness, malfeasance or for other good cause. Va-
18 cancies in the office of district mine inspector shall be filled by
19 appointment for the unexpired term. The salaries of district
20 mine inspectors shall not be less than three thousand dollars
21 nor more than three thousand six hundred dollars per annum,
22 and actual traveling expenses; such salary to be determined
23 by the chief of the department of mines, and based on ability
24 and experience of the district inspector; *provided*, that before
25 payment of such expense shall be made to the inspector
26 he shall file an account of such expense, verified by his affidavit,
27 showing they accrued in the discharge of his official duties.

Oath of Office

Sec. 9. The district mine inspector shall, before entering
2 upon the discharge of his duties, take the oath of office pre-
3 scribed by the constitution and shall furnish bond in the sum of
4 two thousand dollars with security to be approved by the gov-

5 error; conditioned upon the faithful discharge of his duty; a
6 certificate of which oath and which bond shall be filed in the
7 office of the secretary of state.

Duties

Sec. 10. Each of the district mine inspectors shall report,
2 in writing, weekly to the chief of department of mines, the
3 number and condition of all mines inspected by him during
4 each week and shall deliver to the operator, or operators, of
5 each mine inspected a certificate of inspection, and shall post a
6 duplicate certificate at a prominent place of the operating
7 company where it may be conveniently read by any of the
8 mine employees; said duplicate certificate shall remain posted
9 until a subsequent certificate is issued by the district mine
10 inspector. He shall visit each mine in his district at least once
11 in every three months or oftener, if called upon, in writing, by
12 ten men engaged in any one mine, or the owner, operator or
13 superintendent of such mine, and make a personal examination
14 of each working place and also abandoned parts of the mine
15 where gas is liberated, and outside of the mine where any dan-
16 ger may exist to the workmen in their respective districts, and
17 shall particularly examine into the condition of the mines as to
18 ventilation, drainage and general safety and shall make a report
19 of such examination, and he shall see that all provisions of the
20 mining statutes are strictly carried out, and it shall be unlawful
21 for any district mine inspector to appoint any deputy or other
22 person to do and perform any work required of such inspector.

Mine Maps

Sec. 11. The operator, or agent, of every coal mine shall
2 make, or cause to be made, an accurate map or plan of such
3 mine, on a scale to be stated thereon, of one hundred, two hun-
4 dred or three hundred feet to the inch; such map or plan shall
5 show the openings or excavations, the shafts, slopes, entries,
6 airways, with darts or arrows showing directions of air cur-
7 rents, headings, rooms, pillars, etc., and such portions of such
8 mine or mines as may have been abandoned, the general inclin-
9 ation of the coal strata, and so much of the property lines and
10 the outcrop of the coal seam of the tract of land on which said
11 mine is located, as may be within one thousand feet of any part
12 of the workings of such mine; a true copy of such map or plan
13 shall be delivered by such operator to the inspector of his dis-

14 trict, to be preserved among the records of his office and turned
 15 over to his successor in office; but it is provided that in no case
 16 shall any copy of same be made without the consent of the oper-
 17 ator or his agent; and the original map, or a true copy thereof,
 18 shall be kept by such operator at the office of the mine, and
 19 open at all reasonable times for the examination and use of the
 20 inspector, and such operator shall, twice within every twelve
 21 months, while the mine is in operation, cause such mine to be
 22 surveyed and the map thereof extended so as to accurately show
 23 the progress of the workings, the property lines and outcrops
 24 as above provided.

25 The map, or maps, required by this section shall have the
 26 certificate of the engineer making same; acknowledged thereon
 27 before a notary public, or justice of the peace, in the following
 28 form :

29 I, the undersigned, hereby certify that this map is correct
 30 and shows all the information to the best of my knowledge and
 31 belief, required by the mining laws of this state, and covers
 32 the period ending.....

33
 34 *Engineer*

35 Acknowledged before me a.....
 36 this.....day of
 37

38 Any engineer who shall knowingly make any such map which
 39 does not correctly show the data required in this section, or
 40 knowingly makes any false statement in connection therewith,
 41 shall be deemed guilty of a misdemeanor and upon conviction
 42 shall be fined not less than fifty dollars nor more than two hun-
 43 dred dollars.

Sec. 12. If the operator, or agent, of any coal mine shall
 2 neglect or fail to furnish to the mine inspector of his district any
 3 copy of map, or extension thereof, as provided in the preceding
 4 section of this act, the mine inspector is hereby authorized to
 5 cause a correct survey and map, or plan, of said coal mine, or
 6 the extension thereof, to be made at the expense of the operator
 7 of such mine, the cost of which shall be recoverable from said
 8 operator as other debts are recoverable by law; and if at any
 9 time the chief of the department of mines has reason to believe
 10 that such map, or plan, or extension thereof, furnished in pur-
 11 suance of the preceding section be materially incorrect, such

12 as will not serve the purpose for which it was intended, he may
13 have the survey and map, or plan of the extension thereof,
14 made, or corrected, and the expense of making such survey and
15 map, or plan, or extension thereof, under the direction of said
16 chief of the department of mines, shall be paid by the operator,
17 and the same may be collected as other debts are recoverable
18 by law; and if found correct, the expense thereof to be paid by
19 the state.

Ventilation of Mines

Sec. 13. Should the mine inspector discover any room,
2 entry, airway or other working places being driven in advance
3 of the air currents contrary to the requirements of the mining
4 statutes, he shall order the workmen in such places to cease
5 work at once until the law is complied with.

6 (a) The ventilation of mines shall be produced by means
7 of fans, mechanically operated, unless otherwise ordered by
8 the chief of the department of mines. Buildings in which the
9 ventilating fan is enclosed shall be constructed of non-combus-
10 tible material, or otherwise protected from damage by fire by
11 such safe guards as may be approved by the department of
12 mines.

13 (b) The fan (or fans) shall be kept in operation night and
14 day, unless written permission be granted by the chief of the
15 department of mines, or the district inspector in whose district
16 the mine is located. In case of accident to a ventilating fan, or
17 its machinery whereby the ventilation of the mine would be
18 seriously interrupted, the mine foreman shall order the men
19 to withdraw immediately from the mine, and he shall not allow
20 them to return to their work until the ventilation has been
21 restored and the mine has been thoroughly examined by him,
22 or by an assistant mine foreman, or fire boss, and reported
23 safe.

24 (c) Any operator, or agent, of a coal mine before making
25 any new or additional openings, shall submit to the chief of the
26 department of mines, for his information and approval, a plan
27 showing the proposed system of ventilation and equipment of
28 the openings with their location and relative positions to adja-
29 cent developments; and no such new or additional openings
30 shall be made until approved by the chief of the department of
31 mines.

32 (d) The operator, agent or mine foreman of every coal
33 mine, whether worked by shaft, slope or drift, shall provide
34 and hereafter maintain for every such mine adequate ventila-
35 tion affording no less than one hundred cubic feet of air per
36 minute for each and every person employed in such mine and
37 as much more as the district mine inspector may require, which
38 shall be circulated around the main headings and cross head-
39 ings and working places to an extent that will dilute, render
40 harmless and carry off the noxious and dangerous gases liber-
41 ated therein. As working places advance, break throughs for
42 air shall be made not to exceed eighty feet apart, in pillars, or
43 line brattice or other approved methods of ventilation shall be
44 used so as to properly ventilate the face. All the break
45 throughs between the intake and return air ways not required
46 for the passage of air shall be closed with stoppings substan-
47 tially built with suitable material, which shall be approved by
48 the district mine inspector, so as to keep working places well
49 ventilated.

50 (e) With the approval of the mining department greater
51 distances than specified above may be made between break
52 throughs.

53 (f) No more than sixty persons shall be permitted to work
54 in the same air current, provided that a larger number, not
55 exceeding eighty persons, may be allowed by the district mine
56 inspector where, in his judgment, it is impracticable to comply
57 with the foregoing requirements.

58 (g) No operator, agent or mine foreman shall permit any
59 persons to work where they are unable to maintain at least
60 one hundred cubic feet of air per minute; but this shall not be
61 construed to prohibit the operator from employing men to make
62 the places of employment safe and to comply with this require-
63 ment; *provided further*, that while the repair work necessary
64 to get the mine in condition to comply with the law is in prog-
65 ress, no person or persons shall be permitted to enter that part
66 of the mine affected except those actually employed in doing
67 the necessary repair work.

68 (h) No product of petroleum, or alcohol, or any compound
69 that in the opinion of the inspector will contaminate the air
70 to such an extent as to be injurious to the health of the miner
71 shall be used as motive power in any mine.

72 (i) In all mines liberating explosive gas and where there
73 is any reason to believe that gas will be encountered in the
74 future workings and developments of the mine, the minimum
75 ventilation shall be one hundred and fifty cubic feet per min-
76 ute, for each and every person employed therein, and as much
77 more as one or more of the district mine inspectors may deem
78 requisite, and all stoppings on the main entries shall be sub-
79 stantially built of masonry, concrete or other incombustible
80 material which shall be approved by the district mine inspector
81 so as to keep the working places well ventilated; doors on main
82 haulways shall be avoided in gaseous mines where practicable,
83 and overcasts built of masonry or other incombustible material
84 and of ample strength shall be adopted, and where doors are
85 used they must be built in a substantial manner and hung so as
86 to close automatically when unobstructed.

87 (j) All unused working and abandoned parts of the mines
88 must be protected by such safe guards as will prevent, so far
89 as practicable, the accumulation or overflow of gas therein, and
90 all avenues leading thereto shall be so arranged and conducted
91 as to give cautionary notice to all persons of the danger in en-
92 tering therein; and in order to secure safety of the workmen in
93 general against the danger in said unused or abandoned sections
94 of the mine, notice shall be posted warning all persons not to
95 enter such parts of said mine, except persons authorized to
96 make examination of such section and it shall be unlawful for
97 any person, except as aforesaid, to enter such parts of said
98 mine.

Sec. 14. In all mines accumulations of fine dry coal dust
2 shall, as far as practicable, be removed from the mine and all
3 dry and dusty sections kept thoroughly watered down at all
4 times, or rock dusting or other approved means used for allay-
5 ing dust.

Sec. 15. The operator, or agent, of every coal mine worked
2 by shaft, shall forthwith provide, and hereafter maintain, a
3 metal tube, telephone or other approved means of communica-
4 tion from the top to the bottom of such shaft suitably adapted
5 to the free passage of sound through which conversation may
6 be held between persons at the top and at the bottom of the
7 shaft; also the ordinary means of signaling, and an approved
8 safety catch, and a sufficient cover overhead on every cage used
9 for lowering or hoisting persons, and at the top of the shaft

10 an approved safety gate, and an adequate brake on the drum
11 of every machine used to lower or hoist persons in such shaft;
12 and the said operator or agent shall have the machinery used
13 for lowering or hoisting persons into or out of the mine kept
14 in safe condition, and inspected once in each twenty-four hours
15 by some competent person, and there shall be cut out or around
16 the side of hoisting shaft or driven through the solid strata at
17 the bottom thereof a traveling way of not less than five feet
18 high and three feet wide to enable a person to pass the shaft in
19 going from one side of it to the other without passing over or
20 under the cage or other hoisting apparatus.

Sec. 16. The operator or agent of every shaft mine shall in-
2 stall a uniform system of checking the employees in and out of
3 the mine, whereby each employee upon entering the mine shall
4 be given a check by which he shall be identified, and which
5 check shall be placed in its proper place on the check board by
6 the employee when leaving the mine.

Sec. 17. No operator or agent of any coal mine worked by
2 shaft, slope or incline, shall place in charge of any engine or
3 drum used for lowering or hoisting any persons employed in
4 such mine any but competent and sober engineers or drum
5 runners; and no engineer in charge of such machinery shall
6 allow any person, except such as may be deputed for this pur-
7 pose by the operator or agent, to interfere with any part of the
8 machinery; and no person shall interfere with, or intimidate
9 the engineer or drum runner in the discharge of his duties
10 and in no case where the mine is operated or worked by shaft
11 or slope shall more than ten persons ride in any cage or car at
12 one time, without the approval of the chief of the department of
13 mines first having been obtained, and no person shall ride on a
14 loaded cage or car in any shaft or slope, or on any incline.

Sec. 18. In every mine where one hundred, or a less number
2 of men are employed under ground, it shall be the duty of the
3 operator thereof to keep always on hand at the mine two prop-
4 erly constructed stretchers, two woolen and waterproof blan-
5 kets, and all necessary requisites which may be advised by the
6 medical practitioner employed by the company, and for each
7 additional fifty men so employed, one additional stretcher and
8 equipment as above specified shall be furnished.

Sec. 19. The operator or agent of every coal mine shall
2 furnish the inspector proper facilities for entering such mine

3 and making examinations or obtaining information; and if any
4 inspector shall discover that any mine does not in respect to
5 appliances for the safety of the persons employed therein con-
6 form to the provisions of this act, or that by reason of any
7 defect or practice in or at such mine the lives or health of
8 persons employed therein, are endangered, he shall imme-
9 diately, in writing, notify such operator or agent thereof, stat-
10 ing in such notice the particulars in which he considers such
11 mine to be defective or dangerous and if he deems it necessary
12 for the protection of the lives and health of the persons em-
13 ployed in such mine he shall, after giving notice of one day to
14 the said operator or agent, in writing, notify immediately the
15 chief of the department of mines, who shall immediately exam-
16 ine the mine reported to be unsafe.

17 (a) If, upon such examination, the mine reported to be
18 unsafe is in fact found to be in an unsafe condition, the chief
19 of the department of mines shall forthwith order the mine to
20 be closed until it is placed in a safe and proper condition for
21 mining operations; the owner or operator of any mine so closed
22 may apply to the circuit court wherein such mine is located, or
23 the judge thereof in vacation, by petition for an order directing
24 said mine to be re-opened, and such court, or the judge thereof
25 in vacation, shall immediately hear and determine the matters
26 arising upon such petition, and if upon full hearing thereof the
27 court, or the judge thereof in vacation shall find that said mine
28 is in a reasonably safe condition, the prayer of said petition
29 shall be granted; but notice of said hearing shall be given to
30 the district mine inspector and the chief of the department of
31 mines three days at the least before said hearing; and in all
32 such hearings the attorney general shall appear for the state
33 and defend the same.

Sec. 20. Mines, which in the opinion of the department of
2 mines, liberate explosive gas in dangerous quantities from the
3 coal or adjacent strata shall be worked exclusively by the use
4 of locked safety lamps, or approved electric lamps, and no open
5 lamps, or torch shall be used except as may be permitted in
6 writing by the district mine inspector; the safety lamps used
7 for examining any mine or which may be used for working
8 therein shall be furnished by, and be the property of, the
9 operator of the mine, and shall be in charge of some person

10 to be designated by the fire boss, and at least two safety lamps
11 shall be kept at every coal mine, whether such mine liberates
12 fire damp or not.

Sec. 21. It shall be unlawful for the operator, agent or
2 mine foreman of any coal mine, to employ any person to work
3 in said mine, or permit any persons to be in said mine for the
4 purpose of working therein, unless they are in communication
5 with at least two openings, or outlets, to each seam, separated by
6 natural strata, such openings to be not less than three hundred
7 feet apart, if the mine be worked by shaft, and not less than
8 fifty feet apart at the outlets, if worked by slope or drift; but
9 this requirement of a distance of three hundred feet between
10 openings or outlets to shaft mines, shall not apply where such
11 openings, or outlets, have been made prior to the passage of this
12 act. To each of said outlets there shall be provided from the
13 interior of the mine, a safe and available roadway properly
14 drained, which shall at all times, while the mine is in operation,
15 be kept free from all obstructions that might prevent travel
16 thereon in case of an emergency; and if either of said outlets
17 be by shaft, it shall be fitted with safe and available appliances,
18 such as stairs or hoisting machinery, which shall at all times,
19 when the mine is in operation, be kept in order and ready for
20 immediate use, whereby persons employed in the mine may
21 readily escape in case of accident, and in addition to the regular
22 hoisting machinery every shaft used for lowering or hoisting
23 men shall be provided with a complete emergency windlass,
24 or other hoisting device of ample strength for hoisting men
25 from the mine, the same to be approved by the department of
26 mines.

27 This section shall not apply to any mine while work is being
28 prosecuted with reasonable diligence in making communication
29 between said outlets, necessary repairs and removing obstruc-
30 tions, so long as not more than twenty persons are employed
31 at any one time in said mine; neither shall it apply to any mine,
32 or part of a mine, in which a second outlet has been rendered
33 unavailable by reason of the final robbing of pillars, prepara-
34 tory to abandonment, so long as not more than twenty persons
35 are employed therein at any one time; but before a limited
36 number of men are so permitted to work, approval of the
37 necessity therefor shall first be obtained from the department
38 of mines by the operator.

Sec. 22. The operator or agent of every coal mine shall
2 annually, during the month of January, mail or deliver to the
3 chief of the department of mines, a report for the preceding
4 twelve months, ending with the thirty-first day of December;
5 such report shall state the names of the operators and officers
6 of the mine, the quantity of coal mined and such other infor-
7 mation, not of a private nature, as may from time to time be
8 required by the chief of the department of mines; blank forms
9 of such reports shall be furnished by the chief of the depart-
10 ment of mines. At any time any person, company or corpora-
11 tion operating a coal mine shall transfer the ownership of any
12 mine to another person, company or corporation, the person,
13 company or corporation, transferring such ownership shall,
14 within thirty days make a report to the chief of the department
15 of mines of such change, and a statement of the tons of coal
16 produced since the first of January last, previous to the date
17 of such sale or transfer of such mine or mines.

Sec. 23. In any mine in which solid shooting is done the
2 district mine inspector is authorized to prescribe the condition
3 under which solid shooting may be done; any operator or mine
4 foreman, who causes or permits any solid shooting to be done
5 therein without first having obtained a written permit from the
6 district inspector, or any miner therein who shoots coal from
7 the solid without first having obtained permission so to do
8 from the operator or mine foreman, shall be guilty of a misde-
9 meanor and upon conviction shall be fined as hereinafter pro-
10 vided.

Sec. 24. No steam locomotive shall be used in mines where
2 men are actually employed in the extraction of coal, except by
3 the consent of the district mine inspector, but this shall not be
4 construed to prohibit any mine owner from operating a steam
5 locomotive through any tunnel, haulway or part of a mine that
6 is not in actual operation and furnishing coal.

Sec. 25. There shall be adopted by the operator of every
2 mine in this state special rules for the government and oper-
3 ating of his mine or mines, covering all the work pertaining
4 thereto in and outside of the same, which, however, shall not
5 be in conflict with the provisions of the mining laws of this
6 state. Such rules when established shall be printed on card-
7 board, in the languages spoken by ten or more employees, and
8 shall be posted up in the drum house, tippie or some other

9 conspicuous place about the mines where the same may be
10 seen and observed by all employees at such mines, and where
11 said rules are so posted the same shall operate as a notice to all
12 employees at such mine of their acceptance of the contents
13 thereof; and it shall be the duty of each mine operator to fur-
14 nish a printed copy of said rules to each of his employees when
15 requested by either or any of them.

Sec. 26. No miner, workman or other persons, shall know-
2 ingly injure any shaft, lamp, instrument, air course, or brattice
3 or obstruct or throw open airways or carry matches or open
4 lights in the places worked by safety lamps or disturb any part
5 of the machinery or appliances, open a door used for directing
6 ventilation and not close it again, or enter any part of a mine
7 against caution or disobey any order given in carrying out any
8 of the provisions of this act, or do any other act whereby the
9 life or health of any person employed in the mine or the se-
10 curity of the mine is endangered.

11 (a) In mines where electric or safety lamps are used no
12 miner, workman or other person shall at any time enter any
13 mine and carry therein any intoxicating liquors, matches, pipes,
14 cigars, cigarettes, or any device for making lights or fire not
15 authorized or approved; and in all such mines the operator
16 shall, at least once each week, search or cause to be searched,
17 any person entering or about to enter any mine, to prevent such
18 person from taking or carrying therein any of the above men-
19 tioned articles, and no person shall be permitted to enter the
20 mine while under the influence of intoxicating liquors.

Sec. 27. Nor shall any person or persons or combinations
2 of persons, by force, threats, menaces of intimidations of any
3 kind prevent or attempt to prevent from working in or about
4 any mine any person or persons who have the lawful right to
5 work in or about the same, and who desire so to work; but this
6 provision shall not be so construed as to prevent any two or
7 more persons from associating together under the name of
8 knights of labor, or any other name they may desire, for any
9 lawful purpose, or for using moral suasion or lawful argument
10 to induce any one not to work in and about any mine.

Sec. 28. Whenever by reason of any explosion or other
2 accident in any coal mine, or the machinery connected there-
3 with, loss of life or serious personal injury shall occur, it shall
4 be the duty of the superintendent of the colliery, and in his

5 absence, the mine foreman in charge of the mine to give notice
6 forthwith to the chief of the department and the inspector of
7 the district, stating the particulars of such accident; and if
8 any one is killed thereby, to the coroner of the county also,
9 or in his absence or inability to act to any justice of the peace;
10 and the said inspector shall, if he deems it necessary from the
11 facts reported, immediately go down to the scene of such acci-
12 dent and make such suggestions and render such assistance as
13 he may deem necessary for the future safety of the men and
14 investigate the cause of such explosion or accident and make a
15 record thereof which he shall preserve with the other records
16 of his office; and to enable him to make such investigations, he
17 shall have the power to compel the attendance of witnesses, and
18 to administer oaths or affirmations; and the costs of such inves-
19 tigation shall be paid by the county in which such accident
20 occurred in the same manner as the costs of the coroner's
21 inquest are now paid. If the coroner or justice shall determine
22 to hold an inquest upon the body of any person killed as afore-
23 said, he shall impanel a jury, no one of whom shall be directly
24 or indirectly interested. The chief of the department of mines
25 or the district inspector, if present at such inquest, shall have
26 the right to appear and testify and to offer any testimony that
27 may be relevant and to question and cross-question any wit-
28 ness; and the coroner or justice shall deliver to the inspector a
29 copy of the testimony and verdict of the jury.

Sec. 29. No operator, agent or mine foreman shall provide
2 a horse or mule stable inside of any mine unless space is exca-
3 vated in solid strata of rock, slate or coal. If excavated in the
4 coal seam, the wall shall be built of brick, stone or concrete
5 not less than four inches in thickness, or steel plates and the
6 said wall shall be built from the bottom slate to the roof. No
7 wood or other combustible material shall be used in the con-
8 struction of the inside of said stable. The air current used for
9 the ventilation of the said stable shall not be intermixed with
10 the air current used for ventilating any other portion of the
11 mine, but shall be conveyed directly to the return air current.
12 No open lights shall be permitted in any stable in any mine.
13 No hay or straw shall be taken into any mine, unless pressed or
14 made up in compact bales, which shall be kept in a storehouse
15 built apart from the stable, constructed in the same manner

16 as the stable. Under no circumstances shall hay be stored in
17 the stable. All refuse and waste shall be removed from the
18 stable and shall not be allowed to accumulate in the mine.

Sec. 30. All magazines used for storing powder or other ex-
2 plosives in greater quantities than an estimated daily supply
3 shall be located not less than three hundred feet from any mine
4 opening or building used or occupied by any person or persons;
5 and the outside construction of such magazines shall be of non-
6 combustible material.

Electricity in Mines

Sec. 31. The operator, agent or mine foreman of any coal
2 mine in which electricity is used as means of power shall com-
3 ply with the provisions of sections thirty-two to forty-one. in-
4 elusive.

Sec. 32. On all haulage roads, landings and partings, where
2 men are required to regularly work or pass under trolley or
3 other bare power wires which are placed less than six and one-
4 half feet above top of rail, a suitable protection shall be pro-
5 vided. This protection shall consist of channeling the roof,
6 placing boards along the wire, which shall extend below it. or
7 the use of other approved devices that afford protection.

Sec. 33. All machine feed wires shall be placed on glass
2 or porcelain insulators, which shall be so placed as to prevent
3 the wires coming in contact with the coal. When machine or
4 feed wires are carried in same entry as trolley wire, they shall
5 be placed on the same side as the trolley wire, between trolley
6 wire and rib and protected so far as practicable from contact
7 therewith. and positive feed wires crossing places where persons
8 or animals are required to travel, shall be safely guarded or
9 protected from such persons or animals coming in contact
10 therewith, as provided in the preceding section.

Sec. 34. All trolley and positive feed wires shall be placed
2 on opposite sides of track from refuge holes or necks of room,
3 when so ordered by the department of mines, and wires may
4 be placed across the necks of rooms when protected as provided
5 for in section thirty-two. Switches or circuit-breakers shall
6 be provided to control the current at the mine, and all im-
7 portant sections in the mine.

Sec. 35. All power wires and cables in hoisting shafts or
2 manway compartments shall be properly insulated, substantially
3 fixed and well protected.

Sec. 36. Electric haulage by locomotives operated from trolley wire is not permissible in any mines worked by safety or approved electric lamps, except upon the intake airway, fresh from the outside.

Electric Coal Cutting Machines

Sec. 37. All electric coal-cutting machines used in gaseous portions of the mine shall be flame proof, and be approved by the department of mines. No man shall be placed in charge of a coal-cutting machine in any gaseous portion of a mine who is not a competent person, capable of determining the safety of the roof and the sides of the working places and detecting the presence of explosive gas. Machine runners shall be compelled to undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of machines in mines liberating gas, unless they be accompanied by a certified fire boss, or a man having passed such an examination. Said examination to be given by the mine foreman, blank forms for same to be furnished by the department of mines, a copy to be retained on file at the mine office and the original sent to the department of mines, fully made out and signed by the machine runner and mine foreman.

Sec. 38. In any gaseous portion of a mine, a coal-cutting machine shall not be brought within the last break through next the working face, until the machine man shall have made an inspection for gas in the place where the machine is to work, unless such examination is then made by some other competent person authorized or appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the machine shall not be taken in until the gas is removed.

Sec. 39. In working places where gas is likely to be encountered, a safety lamp, or other suitable apparatus for the detection of fire damp, shall be provided for use with each machine when working, and should any indication of fire damp appear on the flame of the safety lamp, or other apparatus used for the detection of fire damp, the person in charge shall immediately stop the machine, cut off the current at the nearest switch, and report the matter to the mine foreman, or fire boss, and the machine shall not again be started in such place until the mine foreman, fire boss, or a person duly authorized by either has

11 examined it and pronounced it safe. All coal-cutting machines
12 shall be provided with a box specially designed for carrying
13 safety lamps for the protection of such lamps.

Sec. 40. No coal-cutting machine shall be continued in opera-
2 tion in a gaseous portion of a mine for a longer period than half
3 an hour without an examination as above described being made
4 for gas, and, if gas is found, the current shall at once be
5 switched off the machine, and the trailing cable shall forthwith
6 be disconnected from the power supply.

Duties of Machine Men

Sec. 41. Machine runners and helpers shall use care while
2 operating mining machines. They shall not permit any person
3 to remain near the machine while it is in operation; they shall
4 examine the roof of the working place and see that it is safe
5 before starting to operate the machine. They shall not move
6 the machine while the cutter chain is in motion.

Fire Boss and His Duties

Sec. 42. It shall be the duty of every mine owner or operator
2 in this state whose mines are known to liberate fire damp or
3 other dangerous gas or gases to employ a fire boss, or bosses, if
4 necessary, who shall be a citizen and resident of this state, and
5 who shall hold a certificate of competency for such position,
6 issued to him by the department of mines, after taking an ex-
7 amination held by the department of mines under its rules and
8 regulations for such examination. He shall have such knowl-
9 edge of fire damp and other dangerous gases as to be able to de-
10 tect the same with the use of safety lamps, and shall have a
11 practical knowledge of the subject of the ventilation of mines
12 and the machinery and appliances used for that purpose, and
13 be a person with at least three years' experience in mines liber-
14 ating explosive gases.

Sec. 43. It shall be the duty of said fire boss, or bosses,
2 where employed in such gaseous mines to prepare a danger
3 signal with red color at the mine entrance and no
4 person except the mine owner, operator or agent, and
5 only then in case of necessity, shall pass beyond
6 this danger signal until the mine has been examined by the
7 fire boss and the same or certain parts thereof reported by
8 him to be safe. It shall further be the duty of said fire boss, or
9 bosses, to go into all the working places of such mine or

10 mines, where gas is known to exist, or liable to exist, and care-
11 fully examine the same with a safety lamp, and do, or cause to
12 be done, whatever may be necessary to remove from such work-
13 ing place or places, all dangerous or noxious gases, and make
14 the same safe for persons to enter therein as workmen in such
15 mine or mines; such examination and removal of said gases
16 shall begin within three hours before the time each shift com-
17 mences work, and it shall be the duty of the said fire boss at each
18 examination to leave evidence of his presence at the face of
19 every place examined, by plainly marking on a board at the face
20 for that purpose, the date of examination. If the mine is safe,
21 he shall remove the danger signal at the mine entrance, or
22 change the color thereof to safety, in order that the employees
23 may enter said mine and begin work.

Sec. 44. The fire boss shall, upon having completed the ex-
2 amination of the mine before each shift, make a written record
3 of the condition of the mine within a book having a form pre-
4 scribed by the chief of the department of mines, which record
5 shall at all times be kept at the mine, subject to the inspection
6 of the district mine inspector or chief of the department of
7 mines.

Sec. 45. In the performance of the duties devolving upon the
2 fire bosses they shall have no superior officers, but all the em-
3 ployees working inside of said mine or mines shall be subordi-
4 nate to said fire boss or bosses, in his particular work.

Sec. 46. It shall be unlawful for any person to enter said
2 mine or mines for any purpose at the beginning of work upon
3 each shift therein until such signal or warning has been given
4 by said fire boss or bosses on the outside of said mine or mines
5 as to the safety thereof, as by statute provided, except under
6 the direction of said fire boss or bosses, and then for the pur-
7 pose of assisting in making said mine safe; and each person who
8 shall enter such mine except as aforesaid, before such notice or
9 signal has been given, or any operator, agent or fire boss who
10 shall violate the provisions of this act, shall be guilty of a mis-
11 demeanor and upon conviction thereof suffer the penalties as
12 hereinafter provided.

Mine Foreman and His Duties

Sec. 47. In order to better secure the proper ventilation of
2 every coal mine, and promote the health and safety of persons

3 employed therein, the operator or agent shall employ a compe-
4 tent and practical inside overseer, to be called mine foreman,
5 who shall be a citizen and resident of this state, having had at
6 least five years' experience in the working, ventilation and
7 drainage of coal mines, and who shall hold a certificate of com-
8 petency for such position, issued to him by the department of
9 mines, after taking an examination held by the department of
10 mines under its rules and regulations for such examinations. In
11 mines in which the operations are so extensive that all the duties
12 devolving upon the mine foreman cannot be discharged by one
13 man, competent persons having had at least three years' ex-
14 perience in coal mines may be designated and appointed as as-
15 sistants, who shall act under the mine foreman's instructions,
16 and shall be responsible for their conduct in the discharge of
17 their duties under such designation or employment.

Sec. 48. The duties of the mine foreman shall be to keep a
2 careful watch over the ventilating apparatus and the airways,
3 traveling ways, pumps and drainage; and shall see that as the
4 miners advance their excavations proper break throughs are
5 made as required by law to properly ventilate the mine, and
6 that all loose coal, slate and rock overhead in the working places
7 and along the haulways be removed or carefully secured so as
8 to prevent danger to persons employed in such mines; and that
9 sufficient props, caps and timbers, as nearly as possible of suit-
10 able dimensions, are furnished for the places where they are to
11 be used, and such props, caps and timbers shall be delivered
12 and placed at such points as the rules for the government of
13 each respective mine provides for them to be delivered. The
14 said mine foreman shall have all water drained or hauled out
15 of the working places where the same is practicable before the
16 miners enter and said working places kept dry as far as prac-
17 ticable while the miners are at work. It shall be the duty of
18 the mine foreman to see that the cross cuts are made, as re-
19 quired by law; that the ventilation shall be conducted by means
20 of said cross cuts through the rooms by means of check doors
21 placed on the entries or other suitable places, and he shall not
22 permit any room to be opened in advance of the ventilating
23 current. The mine foreman shall measure the air current with
24 an anemometer at least twice each month at the inlet and out-
25 let and at or near the faces of the advanced headings, and shall
26 keep a record of such measurements in a book having a form

27 prescribed by the chief of the department of mines; sign boards
28 directing the way to outlets or escapeway shall be conspicuously
29 placed throughout the mine.

Sec. 49. The mine foreman shall require that all slopes, en-
2 gine planes and haulage roads used by any persons in the mine
3 shall be made of sufficient width to permit persons to pass mov-
4 ing cars with safety; or refuge holes shall be made on one side of
5 said haulage road not less than five feet in width, nor less than
6 four feet in depth, and on a level with the road. The refuge
7 holes shall be not more than eighty feet apart, and shall be kept
8 free from obstructions. The roof and sides thereof shall be
9 made secure and kept whitewashed at all times.

Sec. 50. On all haulways, where hauling is done by machin-
2 ery of any kind, the mine foreman shall provide a proper sys-
3 tem of signals, and a conspicuous light on the front and rear of
4 every trip or train of cars when in motion in a mine. When
5 hoisting or lowering of men occurs in the morning before day-
6 light, or in the evening after darkness, at any mine operated
7 by shaft, the mine foreman shall provide and maintain at the
8 shaft mouth a light of a stationary character sufficient to show
9 the landing and all surrounding objects distinctly, and suffi-
10 cient light of a stationary character shall be located at the bot-
11 tom of the shaft so that persons coming to the bottom may
12 clearly discern the cages and other objects contiguous thereto.
13 The mine foreman shall require that no cages on which men are
14 riding shall be lifted or lowered at a rate of speed greater than
15 six hundred feet per minute, and that no mine cars, either
16 empty or loaded, shall be hoisted while men are being lowered or
17 hoisted, and no cages having an unstable self dump platform
18 shall be used for the carrying of workmen unless the same is
19 provided with some device by which the same may be securely
20 locked when men are being hoisted or lowered into the mine.

Mine Foreman and Assistants

Sec. 51. It shall further be the duty of the mine foreman to
2 have bore holes kept, not less than twelve feet in advance of the
3 face, and, where necessary, on sides of the working places that
4 are being driven toward and in dangerous proximity to an
5 abandoned mine or part of mine, suspected of containing in-
6 flammable gases or which is filled with water.

Sec. 52. It shall be the duty of the mine foreman, or the
2 assistant mine foreman, of every coal mine in this state, to see

3 that every person employed to work in such mine shall, before
4 beginning to work therein, be instructed in the particular dan-
5 ger incident to his work in such mine, and furnished a
6 copy of the mining law and rules of such mine. Every inex-
7 perenced person so employed shall work under the direction of
8 the mine foreman, his assistant or such other experienced
9 worker as may be designated by the mine foreman or assistant
10 until he is familiar with the danger incident to his work.

Sec. 53. The mine foreman or his assistants shall visit and
2 carefully examine each working place in the mine each day
3 while the miners of such places are at work, and shall direct
4 that each and every working place shall be secured by props
5 or timbers where necessary, to the end that the working places
6 shall be made safe; should the mine foreman or his assistants
7 find a place to be in a dangerous condition, they shall not leave
8 the place until it is made safe, or remove the persons working
9 therein until the place is made safe by some competent per-
10 sons designated for that purpose.

Sec. 54. The mine foreman shall see that every mine liber-
2 ating explosive gas is kept free of standing gas in all work-
3 ing places and roadways. Any accumulations of explosive gas
4 or noxious gases in the worked out or abandoned portions of
5 any mine shall be removed as soon as possible after its discov-
6 ery, if it is practicable to remove it. All places in live sections
7 that are temporarily abandoned shall be examined as live work-
8 ings by the fire boss on regular inspections. No person who
9 may be endangered by the presence of said explosive gas or
10 noxious gases shall be allowed in that portion of the mine until
11 said gases have been removed. The mine foreman shall direct
12 and see that all dangerous places and the entrance or entrances
13 to worked out and abandoned places in all mines are properly
14 fenced off across the openings, so that no person can enter, and
15 that danger signals are posted upon said fencing to warn per-
16 sons of the existing danger.

Removal of All Dangers Reported

Sec. 55. The mine foreman shall give prompt attention to
2 the removal of all dangers reported to him by his assistants,
3 the fire boss, or any other person working in the mine, and in
4 case it is impracticable to remove the danger at once, he shall
5 notify every person whose safety is menaced thereby to remain
6 away from the portion where the dangerous condition exists.

7 He or his assistants shall, at least once each week, travel and
8 examine all the air courses, roads and openings that give access
9 to old workings or falls, and make a record of the condition of
10 all places where danger has been found, with ink, in the book
11 provided for that purpose.

Sec. 56. The mine foreman shall notify, in writing, the
2 operator or agent of the mine of his inability to comply with
3 any of the requirements of these sections, and it shall then be
4 come the duty of any operator, or agent, to at once attend to
5 the matter complained of by the mine foreman so as to enable
6 him to comply with the provisions hereof if the same can be
7 practically done. If any operator of a mine shall in any man-
8 ner refuse to furnish all supplies necessary for the mine fore-
9 man to comply with the requirements of this act, after being
10 requested so to do in writing by the mine foreman, he shall be
11 guilty of a misdemeanor, and upon conviction thereof, shall be
12 fined as hereinafter provided.

Countersigning Fire Bosses' Report

Sec. 57. The mine foreman shall also, each day, read care-
2 fully and countersign with ink, all reports entered in the record
3 book of the fire bosses.

Sec. 58. In case of the death or resignation of a mine fore-
2 man, the superintendent or manager shall appoint a certified
3 man, if one be available; and if not, he may temporarily appoint
4 any other competent man who may serve with the approval of
5 the chief of the department of mines until the next examination.
6 He shall, while acting as mine foreman, be liable to the same
7 penalty as the mine foreman for any violations of this act.

Explosives and Haulage

Sec. 59. No miner or other employee shall take into any mine
2 in this state any larger quantity of powder or other explosive
3 than he may reasonably expect to use in any one shift, and all
4 powder shall be carried into the mine in a metallic canister or
5 fiber receptacle, of a capacity not to exceed five pounds, which
6 shall be properly closed with an approved top.

Sec. 60. Every miner shall thoroughly examine the roof and
2 general conditions of his working place before commencing
3 work, and if he finds loose rock or other dangerous conditions.
4 he shall not commence work in such place until it has been

5 made safe, or unless it be for the purpose of making said place
6 safe.

Sec. 61. Every workman in want of props, cap pieces and
2 timbers shall notify the mine foreman, or such other person
3 who may be designated for that purpose, at least one day in
4 advance, giving the approximate length and number of props
5 or timbers and cap pieces he requires; but in case of an emer-
6 gency the timbers may be ordered immediately upon discovery
7 of any danger, and it shall be the duty of each miner to prop-
8 erly prop and secure his place in order to make the same se-
9 cure for him to work therein.

Sec. 62. No shots shall be fired in any place known to lib-
2 erate explosive gas until such place has been properly examined
3 by a competent person who is designated for that purpose, and
4 no shots shall be fired in any place where gas is detected until
5 said gas has been removed by means of ventilation. No person
6 shall fire more than one shot at a time, and after firing said shot
7 he shall not return to the working place until the smoke has
8 cleared away; and before starting to work he shall make a care-
9 ful examination as to the condition of the roof, and do what is
10 necessary to make the place safe before beginning to load coal.

Sec. 63. In no case shall more than one kind of explosive be
2 used in the same drill hole, and every blasting hole shall be
3 tamped, except as is necessary to accomplish cushion blasting,
4 full from the explosive to the mouth, and no coal dust or inflam-
5 mable material shall be used for tamping. Cushion blasting
6 shall not be allowed in any case unless written permission is
7 granted by the department of mines. Dynamite shall not be
8 used in blasting coal. No fuses shall be used unless permission
9 is granted by the mine foreman and in no case shall fuses be
10 used of less length than the drill hole.

11 (a) Where permissible explosives are used the detonators
12 and explosives shall be kept separate; and no black powder,
13 high explosives or detonators shall be hauled on any trip oper-
14 ated by electric haulage motors, unless enclosed in non-conduct-
15 ing boxes approved by the district inspector.

16 (b) Trips hauling explosives shall not carry workmen other
17 than those operating the trip, and explosives shall not be hauled
18 into or out of the mine within five minutes preceding or follow-
19 ing any trips in which men are handled; and when traveling
20 with air current, the explosive trip shall precede; if against the
21 air current, the man trip shall precede.

Sec. 64. No person, except the persons necessary to operate
2 the trip or car, shall ride on any loaded car or on the outside
3 of any car, or get on or off a car while in motion.

Duties of Motormen and Trip Riders

Sec. 65. Motormen and trip riders shall use care in handling
2 locomotives and cars. It shall be their duty to see that there is
3 a conspicuous light on the front and rear of each trip or train
4 of cars when in motion. They shall not permit any person or
5 persons to ride on locomotives or loaded cars unless granted
6 permission by the mine foreman.

Reporting Accidents

Sec. 66. Whenever any accident occurs in or about any coal
2 mine to any employee or person connected with the mining
3 operation, resulting in personal injury or death, the operator or
4 agent shall, within twenty-four hours after the happening of
5 such accident, report the same to the chief of the department
6 of mines and to the district mine inspector of the district in
7 which the accident occurs, in writing, giving full details thereof
8 upon forms prescribed and furnished by the department of
9 mines.

Sec. 67. The operator, agent or mine foreman shall upon the
2 discovery of fire in or about any mine immediately notify the
3 chief of the department of mines and the district mine inspector
4 in whose district the mine is located.

Sec. 68. Any operator, agent, superintendent or mine fore-
2 man, having in charge any mine, who shall knowingly permit
3 any person to work in any part of a mine in violation of written
4 instructions issued by the mine inspector, made in compliance
5 with the requirements of this act, shall, upon conviction, be
6 fined as hereinafter provided.

Sec. 69. There is hereby established in the college of engi-
2 neering of the West Virginia university a mining experiment
3 station (or bureau of mine research), which will have for its
4 purpose the conducting of investigations and making tests. to
5 better safeguard the lives of miners, and to bring about greater
6 efficiency and conservation in the mining and mineral indus-
7 tries, to make such tests and investigations as may be required
8 by the department of mines in the prosecution of its work, to
9 conduct such experiments and tests as may promote the devel-

10 opment of the mineral industries of the state, to co-operate with
11 the department of mines in the investigation of the cause of
12 mine disasters and common mine accidents. The work of the
13 mining experiment station (or bureau of mine research) shall
14 be conducted under such rules, regulations and methods as may
15 be prescribed by the board of regents and approved by the de-
16 partment of mines.

Definitions

Sec. 70. MINE: In this act the term mine includes the
2 shafts, slopes, drifts, or incline planes connected with excava-
3 tions penetrating coal stratum or strata, which excavations are
4 ventilated by one general air current, or divisions thereof, and
5 connected by one general system of mine railroads over which
6 coal may be delivered to one or more points outside the mine,
7 when such is operated by one operator.

8 EXCAVATIONS AND WORKINGS: The term excavations and
9 workings includes all the excavated portions of the mine, those
10 abandoned as well as the places actually being worked; also all
11 underground workings and shafts, tunnels, and other ways and
12 openings, and all such shafts, slopes, tunnels and other open-
13 ings in the course of being sunk or driven, together with all
14 roads, appliances, machinery and material connected with the
15 same below the surface.

16 SHAFT: The term shaft means a vertical opening through
17 the strata that is or may be used for the purpose of ventilation
18 or drainage, or for hoisting men or material, or both, in con-
19 nection with the mining of coal.

20 SLOPE: The term slope means an incline or opening used for
21 the same purpose as a shaft.

22 OPERATOR: The term operator means any firm, corporation,
23 or individual operating any coal mine, or any part thereof.

24 SUPERINTENDENT: The term superintendent means the per-
25 son who shall have, on behalf of the operator, immediate super-
26 vision of one or more mines.

27 MINE FOREMAN: The term mine foreman means the person
28 whom the operator or superintendent shall place in charge of
29 the inside workings of the mine and of the persons employed
30 therein.

31 APPROVED SAFETY LAMPS OR ELECTRIC LAMPS: The term ap-
32 proved safety lamps or electric lamps shall mean any safety
33 lamp, or electric lamp, approved by the department of mines.

34 The provisions of this act shall apply to all coal mines and
35 where five or more persons are employed in a period of twenty-
36 four hours, the operating company shall be required to employ
37 a mine foreman.

Penalties

Sec. 71. In all prosecutions under this act, the circuit court,
2 criminal court, intermediate court and justice of the peace,
3 shall have concurrent jurisdiction with the right of appeal.

4 (a) Any chief of the department of mines who shall violate
5 any of the provisions contained in sections one to seven, inclu-
6 sive, of this act, shall, upon conviction thereof, be fined not less
7 than twenty-five dollars nor more than two hundred dollars,
8 and may, in the discretion of the court, be imprisoned in the
9 county jail not exceeding one year.

10 (b) Any mine inspector who shall violate any of the pro-
11 visions contained in sections eight to ten, inclusive, of this act,
12 shall, upon conviction thereof, be fined not less than one hun-
13 dred dollars nor more than five hundred dollars, and be dis-
14 missed from office.

15 (c) Any inspector, person, company or corporation, or any
16 mine superintendent, manager, engineer, mine foreman, agent
17 or employee who is charged with the making of maps or other
18 data to be furnished the department of mines, as provided in
19 sections eleven and twelve of this act, and does not correctly
20 show the data required, or knowingly makes any false state-
21 ment or return in connection therewith, shall be deemed guilty
22 of a misdemeanor and, upon conviction, shall be fined not less
23 than fifty dollars nor more than two hundred dollars, at the
24 discretion of the court.

25 (d) For violation of the provisions of sections thirteen to
26 thirty, inclusive, by the chief of the department of mines, any
27 inspector of said department, or any operator, mine foreman,
28 employee or other person, he or they, shall upon conviction, be
29 fined not less than fifty dollars nor more than five hundred dol-
30 lars, or be imprisoned in the county jail not less than ten nor
31 more than ninety days, at the discretion of the court.

32 (e) For violation of the provisions contained in sections
33 thirty-one to forty-one, inclusive, by any mine inspector, opera-
34 tor, mine superintendent, general manager, mine foreman, or
35 other employee of any coal company, he shall, upon conviction
36 thereof, be fined not less than fifty dollars nor more than five

37 hundred dollars, or be imprisoned in the county jail not less
38 than thirty days nor more than one year, at the discretion of
39 the court.

40 (f) For violation of the provisions contained in sections
41 forty-two to fifty-eight inclusive, by any mine inspector, opera-
42 tor, mine superintendent, general manager, mine foreman, or
43 other employee of any coal company, he shall, upon conviction
44 thereof, be fined not less than fifty dollars nor more than five
45 hundred dollars, or be imprisoned in the county jail not less
46 than thirty days nor more than one year, at the discretion of
47 the court.

48 (g) For violations of the provisions contained in sections
49 fifty-nine to sixty-eight, inclusive, by any mine inspector, opera-
50 tor, mine superintendent, general manager, mine foreman or
51 other employee of any coal company, he shall, upon conviction
52 thereof, be fined not less than fifty dollars nor more than five
53 hundred dollars, or be imprisoned in the county jail not less
54 than thirty days nor more than one year, at the discretion of
55 the court.

All acts and parts of acts inconsistent with the provisions of
this act are hereby repealed.

CHAPTER 89

(House Bill No. 209—By Mr. Keatley)

AN ACT making appropriations of public moneys out of the
treasury, in accordance with the provisions of the amendment
to the constitution of the state of West Virginia, known as the
“Budget Amendment.”

[Passed April 28, 1925; in effect from passage. No action required.]

Sec.	13. State law library.
1. Appropriation of moneys from state treasury.	14. Criminal charges.
2. Appropriations for the two fiscal years.	15. State tax commissioner's office.
3. Appropriations appearing under sub-sections "A" and "B" payable out of the general revenue of state.	16. State commissioner of prohibition.
4. Elective and administrative officers.	17. Department of Mines.
5. Attorney general's office.	18. Commissioner of banking.
6. Auditor's office.	19. Bureau of labor and department of weights and measures.
7. Governor's office.	20. Department of archives and history.
8. Pardon attorney's office.	21. State health department.
9. Civil contingent fund.	22. Capitol building and grounds.
10. Treasurer's office.	23. Governor's mansion and grounds.
11. Secretary of state's office.	24. Labor fund capitol building.
12. Department of Agriculture.	25. Militia.
	26. State sinking fund commission.
	27. Bureau of Negro welfare and statistics.

28. Recodification commission.	Sec.
29. General school fund.	72. New River state school.
30. World War soldiers, sailors and marines.	73. Fairmont state normal school.
31. Publication of delinquent lists.	74. Concord state normal school.
31-a. State aid for agricultural fairs or associations.	75. West Liberty state normal school.
31-b-32. Emergency appropriation.	76. Shepherd college state normal school.
33. New mansion.	77. Glenville state normal school.
34. Rent capitol annex.	78. West Virginia school for deaf and blind.
34-a. Equipment new capitol.	79. West Virginia school for colored deaf and blind.
35. Supreme court of appeals.	80. West Virginia collegiate institute.
36. Circuit courts.	81. Bluefield colored institute.
37. State board of control.	82. Storer college.
38. Huntington state hospital.	83. Public school commission.
39. Spencer state hospital.	84. General revenue state fund.
40. Weston state hospital.	85. Legislative department; senate.
41. State colored hospital for the insane.	86. Senate; salaries of members; same, house.
42. McKendree hospital No. 2.	87. House of delegates; speaker per diem; contingent fund.
43. Fairmont hospital No. 3.	88. Legislative printing and stationery; miscellaneous.
44. State tuberculosis sanitarium.	89. General revenue state fund year 1925.
45. State colored tuberculosis sanitarium.	90. Miscellaneous appropriations.
46. West Virginia industrial school for boys.	91. Appropriations from general school fund.
47. West Virginia industrial home for girls.	92. Department of education.
48. State industrial school for colored boys.	93. Appropriations from road fund.
49. State industrial home for colored girls.	94. State road commission; administration expense; gasoline tax.
50. West Virginia children's home.	95. Special license fees appropriations.
51. West Virginia colored orphan's home.	96. Public service commission.
52. State home for aged and infirm colored men and women.	97. Appropriations under chapter 9, acts 1915, extraordinary session.
53. Printing, binding and stationery.	98. Workmen's compensation.
53-a. Insurance on public buildings.	99. Appropriations from "special revenue."
54. West Virginia geological survey.	100. Refunding overpayments.
55. State board of children's guardians.	101. How appropriations drawn from treasury; requisitions for new buildings; compensation and expenses of boards or commissions; itemized statements to be filed.
56. Point Pleasant battle monument commission.	102. Printing, binding and stationery for state superintendent of schools payable out of general school fund; for other officers, boards and institutions, how paid.
57. Berkeley Springs park.	103. Appropriations not to be exceeded nor paid before services rendered.
58. Rumseyan Society.	104. Clerks of house and senate to certify appropriation bills to auditor and treasurer.
59. State board of pharmacy.	
60. State hotel inspector.	
61. Florence Crittenden home.	
62. Treatment of tuberculosis.	
63. Hospital service.	
64. Treatment of girls.	
64-a. West Virginia penitentiary.	
66. Department of public safety.	
67. West Virginia university.	
68. Extension work.	
69. Agricultural experiment station.	
70. Marshall college.	
71. Potomac state school.	

Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appointed out 2 of the treasury for the fiscal year ending June thirty, one thousand nine hundred and twenty-six, and for the fiscal year ending June thirty, one thousand nine hundred and twenty-seven and for the remainder of the fiscal year ending June thirty, one thousand nine hundred and twenty-five, the following sums of 7 money for the following-named purposes:

Sec. 2. The amounts appearing in the column headed one 2 thousand nine hundred and twenty-six are for the fiscal year

3 ending June thirty, one thousand nine hundred and twenty-
4 six and the amounts appearing in the column headed one thou-
5 sand nine hundred and twenty-seven are for the fiscal year
6 ending June thirty, one uhtosand nine hundred and twenty-
7 seven.

Sec. 3. All appropriations appearing under Sub-sections
2 "A" and "B" are payable out of the general revenue of the
3 state unless otherwise provided herein.

SUB-SECTION "A"

	1926	1927
Sec. 4. Salary of the governor \$	10,000.00	\$ 10,000.00
2 Salary of the auditor.....	5,000.00	5,000.00
3 Salary of the treasurer.....	5,000.00	5,000.00
4 Salary of the attorney general...	5,000.00	5,000.00
5 Salary of the commissioner of		
6 agriculture	5,000.00	5,000.00
7 Salary of the secretary of state...	5,000.00	5,000.00
8 Salary of the state law librarian..	3,000.00	3,000.00
9 Salary of adjutant general	4,000.00	4,000.00
10 Salary of the state tax commis		
11 sioner	6,000.00	6,000.00
12 Salaries of the members of the		
13 public service commissison	18,000.00	18,000.00
14 Salary of the state compensation		
15 commissioner	6,000.00	6,000.00
16 Salary of the chief of the depart-		
17 ment of mines	6,000.00	6,000.00
18 Salary of the commissioner of		
19 banking	5,000.00	5,000.00
20 Salary of the commissioner of		
21 labor	4,000.00	4,000.00
22 Salary of the state historian and		
23 archivist	3,000.00	3,000.00
24 Salary of the state commissioner		
25 of health	4,800.00	4,800.00
26 Salary of the janitor	1,800.00	1,800.00
27 Salary of the keeper of the rolls	300.00	300.00
28 Salaries of the three members of		
29 the board of control	15,000.00	15,000.00

30	Salary of the state hotel inspector	1,500.00	1,500.00
31	Salary of the state commissioner		
32	of prohibition	5,000.00	5,000.00
33	Salary of the director of the bu-		
34	reau of negro welfare and sta-		
35	tistics	3,600.00	3,600.00

JUDICIARY

36	Salaries of the judges of the su-		
37	preme court of appeals.....	40,000.00	40,000.00
38	Salaries of the judges of the cir-		
39	cuit courts	125,500.00	125,500.00

EXECUTIVE DEPARTMENT

Attorney General's Office

	Sec. 5. Salary of first assistant		
2	attorney general	4,500.00	4,500.00
3	Salary of two other assistant at-		
4	torneys general	8,400.00	8,400.00
5	Salary of printing clerk.....	3,000.00	3,000.00
6	Salary of reading clerk.....	1,800.00	1,800.00
7	Salaries of chief clerk, stenog-		
8	raphers and messenger	5,520.00	5,520.00
9	Current general and traveling ex-		
10	penses	3,000.00	3,000.00

Auditor's Office

	Sec. 6. Salary of chief clerk..	3,750.00	3,750.00
2	Salary of auditor of claims.....	3,000.00	3,000.00
3	Salary of corporation clerk.....	3,000.00	3,000.00
4	Salary of chief tax clerk.....	3,000.00	3,000.00
5	Salaries of other clerks, book-		
6	keepers, stenographers and as-		
7	stants	29,200.00	29,200.00
8	Current general expenses	5,000.00	5,000.00
9	Salary of deputy insurance com-		
10	missioner	3,000.00	3,000.00
11	Salaries and current general ex-		
12	penses of insurance department	13,000.00	13,000.00
13	Salary of deputy securities com-		
14	missioner	4,000.00	4,000.00

15 Salaries and current general ex-		
16 penses of securities department	12,000.00	12,000.00
17 For refunding moneys erroneous-		
18 ly paid in to the treasury such		
19 sums are hereby appropriated		
20 as may be erroneously so paid,		
21 payable out of the same fund		
22 into which paid.		
23 For pay of state agents, such		
24 amounts are hereby appropri-		
25 ated as may be necessary to		
26 pay commissions of state		
27 agents, payable out of the fund		
28 collected; <i>provided</i> , that in no		
29 case shall the amount so paid		
30 exceed ten per centum of the		
31 funds collected and paid into		
32 the treasury by any such		
33 agents.		
34 For refunding to counties, dis-		
35 tricts and municipal corpora-		
36 tions, county, district and mu-		
37 nicipal taxes paid into the		
38 treasury for the redemption of		
39 lands, such amount is hereby		
40 appropriated as will be neces-		
41 sary to refund to the counties,		
42 districts and municipal cor-		
43 porations entitled thereto the		
44 taxes so paid into the treasury.		
45 For refunding county, district		
46 and municipal taxes paid into		
47 the treasury by railroads and		
48 other companies, such sum is		
49 hereby appropriated as will be		
50 necessary to refund to each		
51 county, district and municipal		
52 corporation the amount of		
53 such taxes as may be paid into		

54	the treasury to the credit of		
55	such county, district and mu-		
56	nicipal corporation.		
57	Salary of clerk to board of finance	2,400.00	2,400.00

Governor's Office

2	Sec. 7. Salary of private secretary to the governor.....	5,000.00	5,000.00
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Pardon Attorney's Office

2	Sec. 8. Salary of the pardon attorney	4,000.00	4,000.00
3	Salary of the stenographer.....	1,800.00	1,800.00
4	Current general expenses.....	500.00	500.00

Civil Contingent Fund

2	Sec. 9. For civil contingent fund, to be expended upon the		
3	order of the governor, no part		
4	of which, however, is to be used		
5	for clerk hire in any of the		
6	state office or institutions		
7	other than the governor's office	25,000.00	25,000.00

Treasurer's Office

2	Sec. 10. Salary of assistant treasurer	4,000.00	4,000.00
3	Salary of chief accountant.....	3,600.00	3,600.00
4	Salary of Bookkeeper.....	3,000.00	3,000.00
5	Salary of chief clerk, bond de-		
6	partment	3,000.00	3,000.00
7	Salaries of other clerks, bookkeep-		
8	ers, stenographers and assis-		
9	tants	13,000.00	13,000.00
10	Current general and traveling ex-		
11	penses	2,500.00	2,500.00

Secretary of State's Office

2	Sec. 11 Expenses of secretary of state's office, including com-		
3	penetration of clerks, stenogra-		
4	phers and other expenses....	19,000.00	19,000.00

Department of Agriculture

2	Sec. 12. Salaries of clerks and stenographers	9,000.00	9,000.00
3	4 Current general and traveling ex-		
4	5 penses	7,000.00	7,000.00
5	6 For carrying out the provisions of		
6	7 chapter thirteen, acts of one		
7	8 thousand nine hundred and		
8	9 fifteen, as amended and re-en-		
9	10 acted by the acts of one thou-		
10	11 sand nine hundred and nine-		
11	12 ten, relating to diseased ani-		
12	13 mals	10,000.00	10,000.00
13	14 For carrying out the provisions of		
14	15 law relating to control of plant		
15	16 diseases	15,000.00	15,000.00
16	17 For carrying out the provisions of		
17	18 law relating to pure seeds,		
18	19 commercial fertilizer and com-		
19	20 mercial feeding stuffs.....	15,000.00	15,000.00
20	21 For carrying out the provisions of		
21	22 law relating to the eradication		
22	23 of bovine tuberculosis	35,000.00	35,000.00
23	24 Bureau of markets and publica-		
24	tion of bulletins.....	20,000.00	20,000.00

State Law Library

2	Sec. 13. Current general ex-		
3	4 penses and clerk hire	2,400.00	2,400.00
4	5 Purchase and binding books for		
5	6 state law library (Charleston)	2,500.00	2,500.00

Criminal Charges

2	Sec. 14. To pay criminal		
3	3 charges, including transporta-		
4	4 tion of prisoners and extradition		
5	5 of criminals and fugitives	100,000.00	100,000.00

*State Tax Commissioner's Office**General Office*

2	Sec. 15. Salary of law assistant		
3	3 to commissioner	5,000.00	5,000.00

3	Salary of chief assistant	3,000.00	3,000.00
4	Salary of assistant, inheritance		
5	tax and forfeitures.....	3,600.00	3,600.00
6	Salary of assistant, assessment		
7	and levies	3,600.00	3,600.00
8	Salaries of other clerks, stenog-		
9	raphers and assistants	13,020.00	13,020.00
10	To pay all expenses in connection		
11	with carrying out the provi-		
12	sions of chapter one hundred		
13	and fifty-two, acts of one thou-		
14	sand nine hundred and twen-		
15	ty-one, relating to securing a		
16	proper assessment of property	10,000.00	10,000.00
17	Current general and traveling ex-		
18	penses	6,000.00	6,000.00

Gross Sales Department

19	Salary of assistant, gross sales tax	4,800.00	4,800.00
20	Salary of chief clerk.....	3,600.00	3,600.00
21	Salaries of bookkeepers, other		
22	clerks and stenographers	16,500.00	16,500.00
23	Salaries of auditors and field		
24	agents	13,080.00	13,080.00
25	Current general and traveling ex-		
26	penses	7,000.00	7,000.00

Accounting Department

27	Salary of chief accountant	6,000.00	6,000.00
28	Expenses of uniform system of		
29	accounting, including compen-		
30	sation of assistants, stenog-		
31	raphers and other expenses... ..	7,500.00	7,500.00
32	Expenses of auditing state de-		
33	partments and compiling		
34	financial reports	11,700.00	11,700.00

State Commissioner of Prohibition

	Sec. 16. Salary of secretary..	3,000.00	3,000.00
2	Salary of record clerk	2,100.00	2,100.00
3	Salary of typist, part time.....	900.00	900.00

4	Salaries of field officers and other		
5	assistants; traveling and other		
6	expenses of commissioner, field		
7	officers and assistants	25,000.00	25,000.00
8	Current general expenses, includ-		
9	ing rent	3,000.00	3,000.00

Department of Mines

	Sec. 17. Salary of chief clerk	3,000.00	3,000.00
2	Salaries of twenty-five district in-		
3	spectors	80,000.00	82,500.00
4	Salaries of clerks and stenog-		
5	raphers	6,120.00	6,120.00
6	Traveling expenses of chief and		
7	district inspectors	25,000.00	25,000.00
8	Current general expenses.	2,800.00	2,800.00
9	Salary of inspector of sand and		
10	limestone mines	2,400.00	2,400.00
11	Traveling expense of inspector of		
12	sand and limestone mines.	1,200.00	1,200.00
13	Salaries of five directors of mine		
14	safety and rescue work.	12,000.00	12,000.00
15	Traveling expenses of directors of		
16	mine safety and rescue work	7,500.00	7,500.00
17	Current general expenses main-		
18	taining rescue stations and		
19	trucks	9,000.00	9,000.00
20	To purchase ten trucks specially		
21	designed for rescue stations.	20,000.00	
22	To purchase equipment for two		
23	rescue stations	5,000.00	

Commissioner of Banking

	Sec. 18. Salaries of assistants		
2-3	to commissioner of banking	25,200.00	25,200.00
4	Salary of secretary	2,400.00	2,400.00
5	Salary of assistant secretary	1,800.00	1,800.00
6	Salary of typist	1,200.00	1,200.00
7	Traveling expenses of commis-		
8	sioner and assistants	15,400.00	15,400.00
9	Current general expenses	4,000.00	2,500.00

Bureau of Labor and Department of Weights and Measures

Sec. 19. Salaries of six fac-			
2	tory inspectors	14,400.00	14,400.00
3	Salary of chief clerk	3,000.00	3,000.00
4	Salaries of clerks and stenog-		
5	raphers bureau of labor and		
6	department of weights and		
7	measures	4,200.00	4,200.00
8	Current general expenses of the		
9	department of weights and		
10	measures	1,500.00	1,500.00
11	Current general expenses of the		
12	bureau of labor	1,500.00	1,500.00
13	Traveling expenses of the com-		
14	missioner of labor and factory		
15	inspectors	12,000.00	12,000.00
16	Salaries of two inspectors of		
17	weights and measures	3,600.00	3,600.00
18	Traveling expenses of two inspec-		
19	tors of weights and measures	3,600.00	3,600.00
20	Expense free employment federal-		
21	state bureau as provided by		
22	acts one thousand nine hun-		
23	dred and twenty-three.....	2,500.00	2,500.00

Department of Archives and History

Sec. 20. Salary of the librarian			
		2,100.00	2,100.00
2	Salary of the stenographer	1,500.00	1,500.00
3	Salary of the cataloguer	1,800.00	1,800.00
4	Salary of the messenger and jani-		
5	tor	1,200.00	1,200.00
6	Current general expenses	1,700.00	1,700.00
7	Purchase of books, periodicals,		
8	magazines and newspapers ..	1,000.00	1,000.00

State Health Department

Sec. 21. Salaries and current			
2	general expenses	100,000.00	100,000.00
3	Expenses of co-operative work		
4	with the federal government—		
5	Sheppard-Towner act relating		
6	to material and infant hygiene	5,000.00	5,000.00

Capitol Building and Grounds

	Sec. 22. For water, light, heat,		
2	current expenses, other than		
3	repairs and improvements ..	25,000.00	25,000.00
4	Repairs and improvements	5,000.00	5,000.00

Governor's Mansion and Grounds

	Sec. 23. Current general ex-		
2	penses	5,000.00	5,000.00
3	Repairs and improvements	5,000.00	5,000.00

Labor Fund Capitol Building

	Sec. 24. Salaries of engineers,		
2	watchman, janitors, charwom-		
3	en and elevator and telephone		
4	operators	31,000.00	31,000.00

Militia

	Sec. 25. To carry into effect		
2	the provisions of chapter		
3	eighteen, Barnes' code as		
4	amended, relating to the militia.		
5	Armory rentals, light, heat, water,		
6	caretaker and janitor service.	48,000.00	64,900.00
7	All other expenditures for militia	52,000.00	59,520.00

State Sinking Fund Commission

	Sec. 26. Expenses of state		
2	sinking fund commission, in-		
3	cluding compensation of assis-		
4	tants, stenographers and all		
5	other expenses	12,000.00	12,000.00

Bureau of Negro Welfare and Statistics

	Sec. 27. To pay for clerk hire	1,800.00	1,800.00
2	Office rent	600.00	600.00
3	Current general and traveling ex-		
4	penses	2,000.00	2,000.00

Recodification Commission

	Sec. 28. Salary of the com-		
2	mission to recodify the general		
3	statutes	9,000.00	

4	Expenses of the recodification		
5	commission, including compen-		
6	sation of assistants, stenog-		
7	raphers and all other expenses	12,000.00	

Appropriations under this section to be paid on approval of the Governor, and said commission shall file its report with the governor on or before December thirty-one, one thousand, nine hundred and twenty-five.

General School Fund

2	Sec. 29. To supplement the		
3	general school fund to meet		
4	the requirements of section		
5	seven, chapter one hundred		
6	and twenty-six, acts of the		
7	legislature of one thousand		
8	nine hundred and twenty-one.	1,250,000.00	1,250,000.00
9	Notwithstanding the provisions of section seven of chapter		
10	28-a of Barnes' code of one thousand nine hundred and twenty-		
11	three, the foregoing appropriation shall not be distributed by		
12	the state auditor, except upon the order of the state board of		
13	public works designating the amount to which each district is		
14	entitled under existing law.		
15	Said order shall designate the district and fix the amount		
16	allowed to said district and said board of public works shall file		
17	a certified copy thereof with the state auditor within the time		
18	provided in said section referred to herein.		

World War—Soldiers, Sailors and Marines

2	Sec. 30. For the relief of sick,		
3	disabled or indigent soldiers,		
4	sailors and marines residing in		
5	West Virginia, who served in		
6	the world war, to be expended		
7	under such rules and regula-		
8	tions as may be prescribed by		
9	the board of public works...	50,000.00	50,000.00

Publication of Delinquent Lists

2 Sec. 31. To pay cost of pub-
 3 lishing list of delinquent cor-
 4 porations as provided by sec-
 5 tions one hundred and thirty-
 6 four and one hundred and
 7 thirty-six, chapter thirty-two
 8 of the code, payable on requi-
 sition of governor or auditor. 800.00 800.00

State Aid for Agricultural Fairs or Associations

2 Sec. 31-a. To carry out the
 3 provisions of chapter one hun-
 4 dred and twenty-two, acts one
 5 thousand nine hundred and
 6 twenty-one, providing for
 7 state aid for the encourage-
 8 ment of agricultural fairs to
 9 be paid on approval of gover-
 10 nor and commissioner of agri-
 culture 25,000.00 25,000.00

Emergency Appropriation

2 Sec. 31-b 32. To meet emergencies
 3 that arise during the time that
 4 the legislature is not in session
 5 and for the preservation of law
 6 and order to be disbursed on
 the order of the governor 100,000.00 100,000.00

7 *Provided*, that upon the necessity of the use of the fund in
 8 case the appropriation for the first year becomes exhausted, the
 8-a governor shall have the right to draw upon the appropriation
 8-b herein made for the second year, and in case the appropria-
 8-c-d tion for the first year be not expended, it shall automat-
 8-e ically become accessible during the second year.

8-f *Provided, further*, the appropriation for the year one thou-
 8-g sand nine hundred and twenty-six is hereby made available
 8-h for the remainder of the current year of one thousand nine
 8-i hundred and twenty-five.

9 It shall be unlawful for any state board, commission, officer
10 or employee to incur any liability during any fiscal year, which
11 cannot be paid out of the then current year appropriation
12 or out of funds received from the emergency appropriation.

13 It shall be unlawful for any state board, commission, officer,
14 or employee to authorize or to pay any account or bill incurred
15 out of the appropriation for the following year, unless a suf-
16 ficient amount of the appropriation for the fiscal year, during
17 which the liability was incurred, was cancelled by expiration
18 or a sufficient amount of the appropriation remained unexpended
19 at the end of the year.

20 Any member of a state board or commission, or any officer
21 or employee violating the provisions of this section shall be per-
22 sonally liable for any debt unlawfully incurred or for any pay-
23 ment unlawfully made.

New Mansion

2	Sec. 33. To purchase house hold furnishings	15,000.00	5,000.00
3	The foregoing appropriation shall		
4	be expended by and under the		
5	direction of the governor.		
6	To finish mansion, servants'		
7	quarters, garage, walks and		
8	landscape work	35,000.00	20,000.00
9	The foregoing appropriation		
10	shall be expended by and under		
11	direction of the governor.		

Rent of Capitol Annex

2	Sec. 34. To pay rent of capi- tol annex and other property..	27,500.00	27,500.00
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Equipment for New Capitol

2	Sec. 34-a. To purchase vault		
3	equipment, files, office furni- ture and other equipment and		
4	other furnishings for new capi- tol buildings to be paid on ap- proval of board of public works	45,000.00	25,000.00

JUDICIARY DEPARTMENT

Supreme Court of Appeals

Sec. 35. Salary of the clerk...	1,500.00	1,500.00
2 Salaries of five law clerks.....	18,000.00	18,000.00
3 Per diem of the crier.....	950.00	950.00
4 Mileage of the supreme court		
5 judges	650.00	650.00
6 Current general expenses of the		
7 supreme court	2,000.00	2,000.00
8 Printing and binding supreme		
9 court reports	10,500.00	7,000.00
10 For expenses of conducting exam-		
11 ination of applicants to prac-		
12 tice law, including traveling		
13 expenses and per diem of the		
14 members of the examining		
15 board, to be paid on the order		
16 of the president of the exam-		
17 ining board	1,200.00	1,200.00

Circuit Courts

Sec. 36. Compensation of		
2 special judges of the circuit		
3 courts	5,000.00	5,000.00
4 Mileage of the judges of the cir-		
5 cuit courts	2,500.00	2,500.00
6 Allowance for office rent, steno-		
7 graphic services, lighting and		
8 heating office as provided by		
9 chapter eighty-six, acts one		
10 thousand nine hundred and		
11 twenty-one	10,000.00	10,000.00

SUB-SECTION "B."

All appropriations appearing under "Sub-Section 'B'" are
 2 payable only on the requisition and approval of the state board
 3 of control.

EXECUTIVE DEPARTMENT

State Board of Control

Sec. 37. Salary of secretary..	3,300.00	3,300.00
2 Salary of buyer.....	3,600.00	3,600.00
3 Salary of director of building		
4 construction	3,000.00	3,000.00
5 Salary of chief clerk, printing de-		
6 partment	3,000.00	3,000.00
7 Salaries of bookkeepers, stenog-		
8 raphers and other assistants..	30,000.00	30,000.00
9 Current general expenses	5,000.00	5,000.00
10 Traveling expenses	2,500.00	2,500.00

Huntington State Hospital

Sec. 38. Current general ex-		
2 penses	145,000.00	145,000.00
3 Repairs and improvements	12,500.00	12,500.00

Spencer State Hospital

Sec. 39. Current general ex-		
2 penses	110,000.00	110,000.00
3 Repairs and improvements	12,500.00	12,500.00

Weston State Hospital

Sec. 40. Current general ex-		
2 penses	225,000.00	225,000.00
3 Repairs and improvements	37,500.00	37,500.00

State Colored Hospital for the Insane

Sec. 41. Current general ex-		
2 penses	25,000.00	50,000.00
3 Repairs and improvements	25,000.00	25,000.00

McKendree Hospital No. 2

Sec. 42. Current general ex-		
2 penses	20,000.00	20,000.00
3 Repairs and improvements	2,500.00	2,500.00

Fairmont Hospital No. 3

Sec. 43. Current general ex-		
2 penses	25,000.00	25,000.00
3 Repairs and improvements	5,000.00	5,000.00

State Tuberculosis Sanitarium

Sec. 44. Current general ex-		
2 penses	125,000.00	125,000.00
3 Repairs and improvements.....	25,000.00	25,000.00

State Colored Tuberculosis Sanitarium

Sec. 45. Current general ex-		
2 penses	25,000.00	25,000.00
3 Repairs and improvements	7,500.00	7,500.00

West Virginia Industrial School for Boys

Sec. 46. Current general ex-		
2 penses	100,000.00	100,000.00
3 Repairs and improvement.....	25,000.00	25,000.00
4 To pay George A. Barnard, em-		
5 ployee, permanently, totally		
6 disabled, struck on head by in-		
7 mate	1,200.00	1,200.00

West Virginia Industrial Home for Girls

Sec. 47. Current general ex-		
2 penses	35,000.00	35,000.00
3 Repairs and improvements	10,000.00	10,000.00

State Industrial School for Colored Boys

Sec. 48. Current general ex-		
2 penses	25,000.00	25,000.00
3 Repairs and improvements	7,500.00	7,500.00

State Industrial Home for Colored Girls

Sec. 49. Current general ex-		
2 penses	10,000.00	10,000.00
3 Repairs and improvements	5,000.00	5,000.00
4 To complete building	24,726.59	

West Virginia Children's Home

Sec. 50. Current general ex-		
2 penses	16,000.00	16,000.00
3 Repairs and improvements	2,500.00	2,500.00

West Virginia Colored Orphans' Home

Sec. 51. Current general ex-		
2 penses	12,500.00	12,500.00

3	Repairs and improvements	2,500.00	2,500.00
	<i>State Home for Aged and Infirm Colored Men and Women</i>		
	Sec. 52. Current general		
2	expenses	7,500.00	7,500.00
	<i>Printing, Binding and Stationery</i>		
	Sec. 53. For printing, bind-		
2	ing, stationery and storage . . .	70,000.00	70,000.00
	<i>Insurance on Public Buildings</i>		
	Sec. 53-a. To pay for insur-		
2	ance on public buildings	100,000.00	100,000.00
	<i>West Virginia Geological Survey</i>		
	Sec. 54. Salaries	17,500.00	17,500.00
2	Current general expenses	19,000.00	19,000.00
	<i>State Board of Children's Guardians</i>		
	Sec. 55. Salaries, traveling		
2	and current general expenses.	44,000.00	44,000.00
	<i>Point Pleasant Battle Monument Commission</i>		
	Sec. 56. Maintenance, Tu-Endie-		
	Wei Park	1,500.00	1,500.00
3	Repairs and improvements	10,000.00	
	<i>Berkeley Springs Park</i>		
	Sec. 57. Repairs and improve-		
2	ments	10,000.00	500.00
	<i>Rumseyan Society</i>		
	Sec. 58. For maintenance of		
2	grounds at Shepherdstown . .	500.00	500.00
	<i>State Board of Pharmacy</i>		
	Sec. 59. Salaries and current		
2	general expenses	1,500.00	1,500.00
	<i>State Hotel Inspector</i>		
	Sec. 60. Current general and		
2	traveling expenses	1,000.00	1,000.00

Florence Crittenden Home (Wheeling)

2	Sec. 61. For the care and		
3	treatment of wayward girls		
4	and their children, residents		
5	of West Virginia, who may be-		
6	come public charges, admitted		
7	under regulations prescribed		
8	by the state board of control..	5,000.00	5,000.00

Treatment of Tuberculosis

2	Sec. 62. For the care and treat-		
3	ment of persons afflicted with		
4	tuberculosis, residents of West		
5	Virginia, who may become		
6	public charges admitted to sani-		
7	tarium under regulations pre-		
8	scribed by the state board of		
9	control	10,000.00	10,000.00

Hospital Service

2	Sec. 63. For the treatment		
3	of laborers and others who may		
4	become public charges, to be		
5	paid upon approval of the state		
6	board of control in the manner		
7	hereafter set forth	50,000.00	50,000.00
8	October 1, 1925, and every three		
9	months thereafter any hospital,		
10	other than state hospitals,		
11	within the state and doing		
12	charity work, may file with the		
13	state board of control itemized		
14	bills for charity cases treat-		
15	ed during the preceding three		
16	months, said bills to be made		
17	out in the form prescribed by		
18	and at the rates fixed by said		
19	board. Sixty days shall be al-		
20	lowed for filing said bills after		
21	which time the board of con-		
	trol shall audit the same and		

22 pay all proper claims. If, how-
 23 ever, the aggregate of all
 24 claims filed exceeds one-fourth
 25 of the amount appropriated
 26 for the year then said board
 27 shall apportion the said one-
 28 fourth appropriated so that
 29 each claim will receive its
 30 pro rata share. (This appropri-
 31 ation to be expended on order
 32 of the state board of con-
 33 trol, under rules and regula-
 34 tions prescribed by said
 35 board.)

To Carry Out Section 175, Chapter 144, Acts 1921.

2	Sec. 64. Treatment of girls		
3	committed to the West Vir-		
4	ginia industrial home for girls		
5	who are afflicted with infec-		
	tious diseases	5,000.00	5,000.00

West Virginia Penitentiary

2	Sec. 64-a, Repairs and improve-		
3	ments	25,000.00	25,000.00
4	To pay Roy Estep injured in mine		
5	accident at penitentiary	300.00	300.00

Department of Public Safety

2	Sec. 66. To pay the expenses		
3	of the department of public		
4	safety, including the compen-		
5	sation of the officers, employees		
6	and members, and all other		
7	expenses thereof, according to		
8	the provisions of chapter		
9	twelve, acts of the extra session		
10	of the legislature of one thou-		
11	sand nine hundred and nine-		
12	teen and amendments thereto..	500,000.00	500,000.00
13	Any member of the department		
14	public safety who has been or		
	may hereafter be injured while		

15 in the line of duty in the serv-
 16 ice of the state shall be en-
 17 titled to receive such compen-
 18 sation for such period of time
 19 as determined and fixed by the
 20 state board of control; *pro-*
 21 *vided, however,* such compen-
 22 sation shall not exceed the rate
 23 of compensation received at
 24 the time of injury, payable out
 25 of the foregoing appropriation.

West Virginia University

Sec. 67. Salaries of officers,

2	teachers and employees.....	500,000.00	525,000.00
3	Current general expenses.....	175,000.00	175,000.00
4	Athletic expense	10,000.00	10,000.00
5	Purchase of books for libraries..	5,000.00	5,000.00
6	To pay salary and expenses of		
7	alumni secretary and field		
8	agent	5,000.00	5,000.00
9	Repairs and improvements.....	100,000.00	100,000.00

Extension Work

Sec. 68. Mining

2	extension	15,000.00	15,000.00
3	Agricultural, horticultural and		
4	home economics extension....	80,000.00	80,000.00
5	4-H Camp for boys and girls club		
6	work at Jackson's Mills	25,000.00	25,000.00
7	For the construction of a sewage		
8	disposal plant for the treat-		
9	ment of the Jackson's Mills		
10	sewage	7,500.00	
11	Repairs and improvements at		
12	Jackson's Mills	5,000.00	5,000.00
13	Community Packing Plant, cur-		
14	rent general expenses	8,000.00	8,000.00
15	To complete dining hall and swim-		
16	ming pool at 4-H Camp at Jack-		
17	son's Mills	15,000.00	

Agricultural Experiment Station

Sec. 69. Salaries of officers,			
2	technical staff and labor.....	45,000.00	45,000.00
3	Current general expenses	25,000.00	25,000.00
4	Repairs and improvements	15,000.00	15,000.00
5	Live stock	5,000.00	5,000.00
6 Current general expenses, Rey-			
7	mann memorial farms	1,500.00	1,500.00
8 Repairs and improvements, Rey-			
9	mann memorial farms	2,500.00	2,500.00
10 New barns, Reymann memorial			
11	farms	2,500.00	2,500.00

Marshall College

Sec. 70. Salaries of officers,			
2	teachers and employees	170,000.00	175,000.00
3	Current general expenses	40,000.00	40,000.00
4	Repairs and improvements....	15,000.00	15,000.00

Potomac State School, Keyser

Sec. 71. Salaries of officers,			
2	teachers and employees	50,000.00	55,000.00
3	Current general expenses	17,000.00	17,000.00
4	Repairs and improvements	17,000.00	17,000.00

New River State School, Montgomery

Sec. 72. Salaries of officers,			
2	teachers and employees.....	55,000.00	60,000.00
3	Current general expenses	17,500.00	17,500.00
4	Repairs and improvements	12,500.00	12,500.00

Fairmont State Normal School

Sec. 73. Salaries of officers,			
2	teachers and employees	85,000.00	90,000.00
3	Current general expenses	20,000.00	20,000.00
4	Repairs and improvements	20,000.00	20,000.00

Concord State Normal School

Sec. 74. Salaries of officers,			
2	teachers and employees.....	63,000.00	65,000.00

3	Current general expenses.....	15,000.00	15,000.00
4	Repairs and improvements.....	15,000.00	15,000.00

West Liberty State Normal School

Sec. 75. Salaries of officers,			
2	teachers and employees	33,000.00	35,000.00
3	Current general expenses.....	10,000.00	10,000.00
4	Repairs and improvements.....	10,000.00	10,000.00

Shepherd College State Normal School

Sec. 76. Salaries of officers,			
2	teachers and employees.....	46,000.00	46,000.00
3	Current general expenses.....	10,000.00	10,000.00
4	Repairs and improvements.....	15,000.00	15,000.00

Glenville State Normal School

Sec. 77. Salaries of officers,			
2	teachers and employees	53,000.00	55,000.00
3	Current general expenses	13,750.00	13,750.00
4	Repairs and improvements.....	20,000.00	20,000.00

West Virginia School for Deaf and Blind

Sec. 78. Salaries of officers,			
2	teachers and employees	75,000.00	75,000.00
3	Current general expenses	70,000.00	70,000.00
4	Repairs and improvements.....	20,000.00	20,000.00

West Virginia School for Colored Deaf and Blind

Sec. 79. Salaries of officers,			
2	teachers and employees.....		10,000.00
3	Current general expenses	10,000.00	10,000.00
4	Repairs and improvements.....	12,500.00	12,500.00

West Virginia Collegiate Institute

Sec. 80. Salaries of officers,			
2	teachers and employees.....	100,000.00	100,000.00
3	Current general expenses	45,000.00	45,000.00
4	Library books	5,000.00	5,000.00
5	Repairs and improvements	37,500.00	37,500.00

Bluefield Colored Institute

Sec. 81. Salaries of officers,			
2	teachers and employees	40,000.00	40,000.00

3	Current general expenses	10,000.00	10,000.00
4	Repairs and improvements	12,500.00	12,500.00

Storer College

2	Sec. 82. Salaries of officers, teachers and employees	10,000.00	10,000.00
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Public School Commission

2	Sec. 83. To pay all expenses in connection with a public school commission of seven to be appointed by the governor to further carry out the pro- visions of chapter eleven, acts one thousand nine hundred and twenty-three, to be paid on approval of the governor..	2,000.00	2,000.00
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SUB-SECTION "C"

Sec. 84. All appropriations appearing under Sub-section "C" are payable out of the general revenue of the state fund for the fiscal year ending June thirtieth, one thousand nine hundred and twenty-five. Except appropriations in section eighty-eight which are payable for the years one thousand nine hundred and twenty-six and one thousand nine hundred and twenty-seven.

LEGISLATIVE DEPARTMENT

Senate

2	Section 85. Mileage of the members of the Senate for the initial and adjourned sessions of one thousand nine hundred and twenty-five.....	2,062.00
4	President of the Senate, two dollars per day extra for presiding sixty-four days	128.00

Compensation and Per Diem of Other Elective Officers

6	Compensation of the Clerk of the Senate for services rendered prior to, during the initial and the adjourned session	1,600.00
9	Segeant-at-arms of the Senate, sixty-four days at ten dollars per day	640.00

11	Doorkeeper of the Senate, sixty-four days at eight	
12	dollars per day	512.00
13	M. C. Kendleberger, assembling office furniture and	
14	preparing Senate chamber for Senate	71.44

Presidential Appointees

15	Private secretary to the president, sixty-four days	
16	at ten dollars per day	640.00
17	Stenographer to the president, sixty-four days at ten	
18	dollars a day	640.00
19	Chaplain of the Senate, sixty-four days at five dol-	
20	lars per day	320.00
21	Assistant sergeant-at-arms, sixty-four days at ten	
22	dollars per day	640.00
23	Assistant doorkeeper, sixty-four days at eight dol-	
24	lars per day	512.00
25	Secretary to the committee on finance, sixty-four	
26	days at fifteen dollars per day	960.00
27	Stenographer to the committee on finance, sixty-	
28	four days at ten dollars per day	640.00
29	Clerk to the committee on the judiciary, sixty-	
30	four days at twelve dollars per day	768.00
31	Stenographer to the committee on the judiciary,	
32	sixty-four days at ten dollars per day	640.00
33	Eleven additional committee clerks, sixty-four	
34	days each at eight dollars per day	\$5,632.00
35	Clerk to committee on roads and navigation,	
36	sixty-four days at eight dollars per day	512.00
37	Seven floor stenographers, sixty-four days each at	
38	eight dollars per day	3,584.00
39	Three mailing clerks in document room, forty-nine	
40	days each at eight dollars per day	1,176.00
41	One mailing and banking page, sixty-four days	
42	at five dollars per day	320.00
43	Two journal pages, sixty-four days each at five	
44	dollars per day	640.00
45	Six floor pages and two messengers, sixty-four days	
46	each at four dollars per day	2,048.00
47	One day watchman and one night watchman at	
48	sixty-four days each at five dollars per day ..	640.00

49	Two cloakroom attendants, two toilet room attendants, sixty-four days each at five dollars per day	1,280.00
51	One day and one night elevator operator, sixty-	
52	four days at five dollars per day	640.00
53	Three assistant janitors, one telephone booth oper-	
54	ator and messenger, sixty-four days each at five	
55	dollars per day	1,280.00
56	Two assistant janitors, sixty-four days each at five	
57	dollars per day	640.00
58	Three assistant janitors, sixty-four days each at	
59	three dollars per day	576.00
60	Three assistant janitors, seventeen days each at five	
61	dollars per day	265.00

Services During Interim

62	To pay clerk of the senate, assistant clerk, sergeant-	
63	at-arms, assistant sergeant-at-arms, committee	
64	clerks, stenographers, mailing and banking	
65	pages, supervisor of printing, assistant super-	
66	visor of printing, abstract clerks, senate and	
67	house bill record clerks, roll clerk, bill editor,	
68	superintendent of document room, office sten-	
69	ographers, assistant bill editor, warrant clerk,	
70	bookkeeper, journal clerks, copy holders, as-	
71	stant in journal room, messenger, general	
72	clerks, janitors and elevator operators.....	16,547.50

Clerks Appointees

73	Compensation of chief assistant clerk, for serv-	
74	ices rendered during the initial and adjourned	
75	sessions	960.00
76	Compensation of supervisor of printing, sixty-four	
77	days at seven dollars and fifty cents per day	480.00
78	Compensation of the official reporter during initial	
79	and adjourned sessions	768.00
80	Compensation of assistant supervisor of printing,	
81	two abstract clerks, two senate and house bill	
82	record clerks, one roll clerk, one bill editor at	
83	twelve dollars per day each	5,476.00

84	Compensation of superintendent of document room,		
85	two office stenographers, assistant bill editor,		
86	one warrant clerk, bookkeeper at ten dollars		
87	per day each	3,840.00	
88	Compensation of one clerk enrolled bills, sixty-four		
89	days at ten dollars per day	640.00	
90	Compensation of three journal clerks, three copy		
91	holders, one assistant in journal room, one		
92	messenger to the clerk, eight dollars per day		
93	each	4,096.00	
94	Compensation of eight general assistants at eight		
95	dollars per day each	4,096.00	
96	Contingent fund of senate	20,000.00	
	Sec. 86. Salaries of members		
2	of the senate	15,000.00	15,000.00
3	Salaries of members of the house		
4	of delegates	47,000.00	47,000.00
5	To pay John T. Harris for editing, compiling and		
6	publishing the "West Virginia Legislative		
7	Hand Book and Manual and Official Register"		
8	under the same provisions as to distribution		
9	as were adopted in the session of one thousand		
10	nine hundred and twenty-one, including all		
11	expenses incurred in the employment of con-		
12	tributors, the preparation of matter, clerical		
13	hire, stenographic service and proof reading,		
14	and for shipping charges in connection with		
15	the distribution of the book.		
16	For the year ending June thirty, one thousand		
17	nine hundred and twenty-six	12,000.00	
18	For the year ending June thirty, one thousand		
19	nine hundred and twenty-seven	12,000.00	
20	One-half of the above amounts to be paid by the		
21	auditor to the editor and compiler, upon a cer-		
22	tificate from the superintendent of public		
23	printing that the "copy" for the "Hand		
24	Book" has been turned over to the public		
25	printer, and the other half upon a similar cer-		
26	tificate that the complete editions have been de-		
27	livered.		

28 After the distribution provided for in the acts of one thou-
 29 sand nine hundred and twenty-one, above referred to, or by
 30 further resolution by either house of the Legislature, the
 31 remainder of the edition shall be sold by the secretary of
 32 state or persons desiring to purchase the same, at the price of
 33 three dollars per volume.

34 To pay the following named persons and firms for supplies
 35 furnished and services rendered, one thousand nine hundred
 36 and twenty-five, senate.

37 The H. O. Baker Co., electric lamps and shades	52.50
38 Calahan's Garage, supplies, storage for car used by	
39 printing clerk	53.00
40 Chesapeake and Potomac Telephone Company,	
41 services and tolls	279.24
42 Federal Publishing Company, seventeen copies	
43 Barne's code	297.50
44 J. M. Gates' Sons Company, supplies	23.00
45 H. R. Judy, keys and locks and repairs to desks..	50.65
46 Laird Office Equipment Company, pencils and sup-	
47 plies	5.75
48 J. H. Love, labor and material	29.46
49 Grace E. Holmes, washing towels	5.50
50 Kanawha Ice Company, ice	49.69
51 S. Spencer Moore Co., desks, tables, file cases and	
52 supplies	2,030.59
53 Morgan Lumber Company, labor and materials..	105.14
54 C. S. Myers, labor and material	68.00
55 Mock Orange Mineral Water Company, drinking	
56 water	63.00
57 Remington Typewriter Company, typewriter	
58 rentals	68.50
59 Smith and Brooks, janitor supplies	39.57
60 W. F. Thompson, labor and material, electrical	
61 work	42.00
62 Underwood Typewriter Company, typewriter	
63 rentals	187.00
64 Virginian Electric Inc., electric globes	33.80
65 Wales Adding Machine Company, rental	20.00
66 Walker Dry Goods Company, floor covering in	
67 senate chamber and towels	37.90
68 Western Union Telegraph Company, telegraph	
69 service	5.06

70	Winter Floral Company, floral tributes	61.00
71	Cal F. Young Company, desks, tables, chairs	
72	office supplies	734.44

LEGISLATIVE COMMITTEE TO INVESTIGATE PENITENTIARY—JOINT RESOLUTION NO. 1

73	To pay traveling expenses of members and secre-	
74	tary, stenographic services, clerk hire and	
75	attorney	2,032.14

LEGISLATIVE BUILDING PROGRAM COMMITTEE
SENATE JOINT RESOLUTION NO. 7

76	To pay the traveling expenses of members and sec-	
77	retary, stenographic services and clerk hire	4,315.82

LEGISLATIVE COMMITTEE TO INVESTIGATE CAPITOL FRAUD—SENATE JOINT RESOLUTION NO. 16

78	To pay Charles C. Price for services in reporting	
79	proceedings before this committee	183.02
80	To pay K. C. Moore, counsel services	243.00
81	To pay Ben D. Keller for services in reporting	
82	proceedings senate judicial committee, senate	
83	bill number three hundred and twenty-eight,	
84	hydro-electric	100.50

House of Delegates

	Sec. 87. Mileage of members of the house of	
2	delegates	7,000.00
3	Per diem of the speaker of the house at \$2 per day	128.00
4	Contingent fund of the house of delegates....	30,000.00

Legislative Printing and Stationery

	Sec. 88. To pay the cost of legislative printing	
2	and stationery, the appropriation to be available	
3	for the year ending June thirtieth, one thousand	
4	nine hundred and twenty-five. If the work is not	
5	completed prior to June thirtieth, one thousand	
6	nine hundred and twenty-five, then the appro-	
7	priation shall continue in effect until completed	50,000.00
8	Compensation of the speaker during the interim,	
9	and for services after adjournment, including	
10	the singning of the official journals, etc.	1,500.00

Compensation of Other Elective Officers

11	Compensation of the clerk of the house for the	
12	initial and adjourned sessions	1,600.00
13	Compensation of the sergeant at arms of the house	
14	for the initial and adjourned session.....	768.00
15	Compensation of the door keeper of the house for	
16	the initial and adjourned sessions of the house	640.00

Clerks Appointees

17	Chief assistant clerk	960.00
18	Supervisor of printing, stenographer to clerk, bill	
19	editor, general office clerk.....	8,072.00
20	Thirteen assistant clerks	8,320.00
21	Three assistant clerks for adjourned session....	1,920.00
22	One joint supervisor of printing on part of house	480.00

For Services During the Interim

23	Per diem of clerk, stenographer to clerk, proof read-	
24	ers, copy holders, mailing and banking page, as-	
25	stant clerk, sergeant at arms, assistant sergeant	
26	at arms, mailing clerks, secretary, messenger	
27	and page to speaker, stenographers, joint super-	
28	visor of printing on the part of the house, super-	
29	visor of journal room and journal pages; com-	
30	mittee clerks, ladies maid and janitors, in con-	
31	nection with editing, proof reading, abstracting,	
32	printing and mailing of bills, joint resolution	
33	and journals and work and care of the house	
34	chamber during the interim	15,905.00

Speakers Appointees

35	Fourteen floor stenographers at six dollars per day	5,376.00
36	One chief stenographer at eight dollars per day..	512.00
37	Clerk Committee on Taxation and Finance.....	640.00
38	One assistant clerk to committee on taxation and	
39	finance	512.00
40	One stenographer to committee on taxation and	
41	finance	512.00
42	One messenger committee on taxation and finance	320.00
43	Secretary to speaker	768.00
44	Parliamentarian to speaker	640.00

45 Messenger to speaker	384.00
46 Page to speaker	256.00
47 Stenographer to speaker	320.00
48 Nineteen committee clerks at six dollars per day	7,296.00
49 Clerk to committee on education.....	512.00
50 Stenographer to committee on education	384.00
51 Thirteen floor pages at four dollars per day....	3,328.00
52 One mailing and banking page at eight dollars per 52-a day	512.00
53 Two assistant sergeant at arms at eight dollars per 54 day	1,024.00
55 Clerk to the committee on the Judiciary at ten 56 dollars	640.00
57 Stenographer to committee on the Judiciary.....	512.00
58 Clerk to committee on roads, labor, railroads and 59 military affairs, at ten dollars per day (E. B. 60 Rock)	640.00
61 Three journal pages at five dollars per day	960.00
62 Eight assistant journal pages at five dollars per day	1,900.60
63 Frank Roberts—work in Journal room.....	49.00
64 David Lopinsky, work on mailing force.....	49.00
65 Two night watchmen at six dollars per day....	768.00
66 Two day watchmen at five dollars per day.....	640.00
67 Three assistant doorkeepers at six dollars per day	1,152.00
68 Eight toilet and cloak room attendants at four 69 dollars	2,048.00
70 One ladies' maid at four dollars per day.....	256.00
71 Supervisor of journal room at ten dollars per day	640.00
72 Chaplain of house at five dollars per day.....	320.00
73 Legal advisor and draftsman at twelve dollars per 74 day	768.00
75 Seven mailing clerks at six dollars per day.....	2,688.00
76 To pay chief janitor and six janitors	2,240.00
77 To pay five county janitors equally	500.00
77-a To pay James W. Fisher for services	100.00

Miscellaneous Appropriations

78 Robert Hamilton—clerk for opening session	200.00
79 W. A. Riffe—ex-sergeant at arms, work at open- 80 ing of session	100.00
81 Callahans Garage, supplies, storage and service..	80.69
82 Chesapeake and Potomac Telephone Co., rentals	86.18

83	J. L. Javins, journal service	200.00
84	The Hadley Company, merchandise	3.00
85	J. M. Gates Sons Co., merchandise	11.55
86	The Peoples Store, merchandise	4.47
87	Nu Way Dry Cleaning, merchandise	7.00
88	City Taxi Cab Company, service	2.75
89	Alexander Electric Service, service	3.90
90	C. W. Myers, labor	9.00
91	The Capitol Letter Shop, merchandise	16.50
92	Kanawha Novelty Works, mdse. and labor	13.50
93	G. A. Thompson, merchandise and labor	7.75
94	Winter Floral Company, flowers	118.50
95	The Cardavure, merchandise	5.25
96	The Woodrum Home Outfitting Co.	2.25
97	Morgan Lumber Mfg. Co., material	1.76
98	C. O. Whitten Paint Co., mdse. and labor	41.66
99	S. E. Beckwith—keys	2.50
100	S. S. Roush, merchandise	3.24
101	The S. Spencer Moore Co., merchandise	481.64
102	Winnie Miller, merchandise	96
103	Kanawha Ice Company, ice.....	44.53
104	Mock Orange Mineral Water Co., water	82.40
105	Underwood Typewriter Co., rental typewriters	60.00
106	Remington Typewriter Co., rental typewriters ..	63.00
107	Royal Typewriter Co., rental typewriters	30.00
108	Cal F. Young Co., mdse.	702.48
109	Eisensmith Jewelry Company, clock	18.00
110	Federal Law Publishing Co., codes	577.50
111	George Willis, hauling trash	10.00
112	J. C. Lewis, hauling trash	28.00

SUB-SECTION "D"

Sec. 89. All appropriations appearing under Sub-section 2 "D" are payable out of the general revenue of the state fund 3 for the fiscal year ending June thirtieth, one thousand nine 4 hundred and twenty-five.

Miscellaneous Appropriations.

2	Sec. 90. Supplemental appropriation to pay	
2	for insurance on public buildings.....\$	30,000.00
3	To pay A. R. Beisel paving certificates due for pav-	
4	ing at Marshall college.....	13,805.17

5	To pay Title Insurance Co. paving certificates due	
6	for paving at Marshall college.....	3,963.17
7	To pay for rent of Capitol Annex property from	
8	October fifteenth, one thousand nine hundred	
9	and twenty-four, to June thirtieth, one thou-	
10	sand nine hundred and twenty-five.....	15,125.60
11	To pay C. & O. Railway Co. for transportation of	
12	health car in one thousand nine hundred and	
13	nineteen	29.00
14	To pay Wales Adding Machine Co. for one Wales	
15	bookkeeping machine for state sinking fund	
16	commission	652.50
17	Supplemental appropriations for department of ag-	
18	riculture, payable on requisition of commissioner	
19	of agriculture for carrying out the provisions	
20	of law relating to diseased animals.....	2,000.00
21	For carrying out the provisions of law relating to	
22	plant diseases and crop pest.....	2,500.00
23	For the payment of indemnities relating to the	
24	eradication of bovine tuberculosis	10,000.00
25	For current general, traveling and expenses of	
26	laboratory	2,000.00
27	To pay bills or expenses incurred by department of	
28	agriculture prior to March 4, 1925.....	10,000.00
29	To reimburse the militia for repairs to Huntington	
30	armory which was damaged by fire, said ex-	
31	penditure being in addition to amount re-	
32	ceived from insurance	1,289.00
33	To pay widow of Charles Walker, who was killed	
34	January third, one thousand nine hundred and	
35	twenty-one, in the state house fire. This ap-	
36	propriation to be in full and to be paid on the	
37	requisition of the state auditor.....	1,000.00
38	To pay to the widow of Oscar Thaxton who was	
39	injured January third, one thousand nine hund-	
40	red and twenty-one, in the state house fire, and	
41	died March fourteenth, one thousand nine hund-	
42	red and twenty-one. This appropriation to be	
43	in full and to be paid on the requisition of the	
44	state auditor	1,000.00

45	To pay Oscar Butcher, who was injured in one thousand nine hundred and fifteen at Parkersburg,	
46	W. Va., while in the service of the national	
47	guard. This appropriation to be in full and to	
48	be paid on requisition of state auditor.....	500.00
49	To pay Grover C. Perrine, of Braxton county, who	
50	was injured in one thousand nine hundred and	
51	fourteen while in the service of the West Vir-	
52	ginia national guard. This appropriation to be	
53	in full and to be paid on the requisition of the	
54	state auditor	1,000.00
55	To pay William Bryant, who was injured in one	
56	thousand nine hundred and ten at Gettysburg	
57	while in the service of the national guard. This	
58	appropriation to be in full and paid on requisition	
59	of state auditor.....	1,000.00
60	To pay Felix D. Dean, who was injured in one thousand	
61	nine hundred and twelve at Cabin and	
62	Paint Creek while in the service of the national	
63	guard. This appropriation to be in full and	
64	paid on requisition of state auditor.....	1,000.00
65	To pay the guardian of Lewis Arrington, who was	
66	injured in one thousand nine hundred and	
67	twenty-three while an inmate of the West Vir-	
68	ginia industrial school for boys, while work-	
69	ing for the state road commission. This ap-	
70	propriation to be in full and paid on requisition	
71	of state auditor	1,000.00
72	To pay the balance of cost of construction of office	
73	building No. 1, West Virginia State Capitol. This	
74	appropriation to be paid on the requisition of the	
75	governor.....	68,000.00
76	To supplement the current year appropriations for	
77	department of public safety, the appropriation	
78	to be paid in the same manner as the general ap-	
79	propriation for said department	100,000.00
80	To supplement the current year appropriation for	
81	criminal charges, this appropriation to be paid	
82	on requisition of state auditor	15,000.00
83	To pay Louis E. Schrader for court reporter services	
84	rendered in criminal cases in Ohio county	
85		

86	in one thousand nine hundred and eighteen and	
87	one thousand nine hundred and nineteen, this	
88	appropriation to be paid on requisition of state	
89	auditor. (This bill cannot be paid out of regu-	
90	lar appropriation for criminal charges account	
91	five year limitation.)	380.00
92	To reimburse C. L. Vandevander, deputy sheriff of	
93	Pendleton county, for attorney fee paid in ex-	
94	tradition case to represent him in the courts of	
95	the State of Wyoming. This appropriation to	
96	be paid on requisition of state auditor	150.00
97	To pay Isaac Noel for part of difference in ex-	
98	penditures and receipts of home for aged and	
99	infirm colored people operated by Isaac Noel	
100	from December thirteen, one thousand nine	
101	hundred and twenty, to July first, one thousand	
102	nine hundred and twenty-three	2,500.00
103	To pay H. E. Nease for services, board of public	
104	works, in connection with assessment of public	
105	service corporations, July first, one thousand	
106	nine hundred and twenty-three to February	
107	twenty-eight, one thousand nine hundred and	
108	twenty-five (twenty months at one hundred dol-	
109	lars per month)	2,000.00

SUB-SECTION "E"

Sec. 91. All appropriations appearing under Sub-section 2 "E" are payable out of the general school fund of the state.

Department of Education

	1926	1927
Sec. 92. Salary of superin-		
2 tendent of free schools \$	5,000.00	\$ 5,000.00
3 Salary of assistant superintendent	4,000.00	4,000.00
4-5 Salary of chief clerk	3,000.00	3,000.00
6 Salary of statistical clerk	2,400.00	2,400.00
7 Salary of supply clerk	2,100.00	2,100.00
8 Salary of high school supervisor..	3,300.00	3,300.00
9 Salary rural school supervisor,		
10 part	400.00	400.00

11	Salaries of assistant rural school		
12	supervisors	6,900.00	6,900.00
13	Salary of director of physical		
14	education	3,300.00	3,300.00
14-a	Salary of supervisor of teacher		
14-b	training	3,500.00	3,500.00
15	Salary of supervisor of Negro		
16	schools	3,000.00	3,000.00
17	Stenographers and other clerks..	12,000.00	12,000.00
18	Expenses for conducting uniform		
19	examinations	8,500.00	8,500.00
20	Printing, binding and stationery	20,000.00	20,000.00
21	Expenses of state superintendent	500.00	500.00
22	Current general expenses	5,500.00	5,500.00
23	Traveling and other necessary ex-		
24	penses of inspectors and super-		
25	visors of colored schools, high		
26	schools, conferences and other		
27-28	general expenses	6,000.00	6,000.00

State Board of Education

29	Salaries of six members of state		
30	board of education	6,000.00	6,000.00
31	Salaries of two advisory members		
32	of state board of education...	2,000.00	2,000.00
33	Expenses of members of state		
34	board of education	2,500.00	2,500.00
35	Expenses of advisory members...	600.00	600.00
36	Salary and expenses of secretary		
37	and director	5,000.00	5,000.00
38	Salaries of stenographers	1,800.00	1,800.00

General Expenses

39	Salaries of county superintendents	93,500.00	93,500.00
40	Compensation and expenses of in-		
41	stitute instructors	15,000.00	15,000.00
42	To assist in rehabilitation work in		
43	co-operation with the federal		
44	government, payable on order		
45	of the state board of education		
46	and the state board of control	17,500.00	17,500.00

<p>47 Vocational education, payable on 48 order of the state board of 49 education and state board of 50 control</p>	<p>30,000.00</p>	<p>30,000.00</p>
<p>51 The auditor shall credit all delin- 52 quent taxes due the state to the 53 fund to which they belong, and 54 the cost of certification of sale 55 shall be paid out of the fund to 56 which they are credited, and 57 there is hereby appropriated so 58 much as may be necessary for 59 the payment of the following 60 (payable on requisition of the 61 auditor) :</p>		
<p>62 To pay salaries and current 63 general expenses of land de- 64 partment</p>	<p>12,600.00</p>	<p>12,600.00</p>
<p>65 For the publication of the above 66 delinquent taxes, there is here- 67 by appropriated so much as 68 may be necessary at the rate 69 fixed by general law, payable 70 on requisition of the auditor. 71 In addition to the foregoing appro- 72-73 priations the balance of the 75 receipts for each year of said 76 fund is hereby appropriated 77 for supplemental aid to schools 78 in accordance with the provis- 79 ion of general law.</p>		

Deficiency Appropriations

<p>80 To supplement the appropriation for printing, bind- 81 ing and stationery for the year ending June 82 thirtieth, one thousand nine hundred and 83 twenty-five</p>	<p>10,000.00</p>
<p>84 To supplement the appropriation for expenses for 85 conducting uniform examinations for the year</p>	

86	ending June thirtieth, one thousand nine hun-	
87	dred and twenty-five	4,000.00
88	The last two named appropriations to be avail-	
89	able for payment upon the passage of this act.	

SUB-SECTION "F"

Sec. 93. All appropriations appearing under Sub-section 2 "F" are payable out of the state road fund of the state.

STATE ROAD COMMISSION

Automobile Bureau

	1926	1927
Sec. 94. For cost of license		
2 tags, storage, envelopes for		
3 mailing, postage, freight, ex-		
4 press and cartage on same	100,000.00	120,000.00
5 Salaries of clerks, stenographers		
6 and field agent and other		
7 assistants	81,580.00	108,500.00
8 Current general expenses	50,000.00	55,000.00

Administration Expenses

9 Salaries of commissioners	22,500.00	22,500.00
10 Salaries of engineers, clerks, sten-		
11 ographers, property, account-		
12 ing, recording and other assist-		
13 ants	198,880.00	198,880.00
14 Traveling expenses, including		
15 automobile bureau	25,000.00	25,000.00
16 Office rent, including heat, light,		
17 water and janitor service, in-		
18 cluding automobile bureau ..	22,580.00	23,380.00
19 Furniture and equipment, includ-		
20 ing automobile bureau	10,000.00	10,000.00
21 Current general expenses	30,000.00	30,000.00

Gasoline Tax

22 To pay all expenses in connection
 23 with carrying out the provi-
 24 sions of chapter thirty-four,
 25 acts nineteen hundred and

26	twenty-three, relating to tax on		
27	gasoline; payable on requi-		
28	sition of state tax commis-		
29	sioner	7,500.00	7,500.00
30	For complying with and carrying		
31	out the provisions of section		
32	eighty-three, good roads act,		
33	one thousand nine hundred		
34	and twenty-one, relating to re-		
35	funds and refunding moneys		
36	erroneously paid through the		
37	commission into the treasury		
38	such sums are hereby appropri-		
39	ated as may be erroneously		
40	paid.		
41	In addition to the foregoing ap-		
42	propriations the balance or		
43	residue of the annual receipts		
44	of the state road fund are		
45	hereby appropriated for the		
46	payment of interest on and		
47	principal of outstanding road		
48	bonds, for maintenance and		
49	construction and reconstruc-		
50	tion of state roads, in accord-		
51	ance with the provisions of		
52	the good roads act of one thou-		
53	sand nine hundred and		
54	twenty-one legislature, sec-		
55	tions fifteen, twenty-three and		
56	seventy-two.		
57	Supplemental appropriation payable during year		
58	ending June thirty, one thousand nine hundred		
59	and twenty-five, to pay Joseph Corrola part of		
60	certified check which was forfeited to road		
61	commission on account failure to accept contract		
62	under bid		10,000.00
63	To pay claims against state road commission re-		
64	sulting from injury or damages. This amount		
65	appropriated for remainder of year ending June		
66	30, 1925		2,202.93

SUB-SECTION "G"

Sec. 95. All appropriations appearing under Sub-section
2 "G" are payable out of the special license fees authorized by
3 section fifteen, chapter eight, acts of one thousand nine hun-
4 dred and fifteen (regular session) and amendments thereto.

Public Service Commission

Sec. 96. To pay salary of		
2 secretary, all other salaries and		
3 current general expenses	80,000.00	80,000.00

SUB-SECTION "H"

Sec. 97. All appropriation appearing under Sub-section
2 "H" are payable out of the fund created by chapter nine, acts
3 of one thousand nine hundred and fifteen (extraordinary ses-
4 sion) and amendments thereto.

Workmen's Compensation

Sec. 98. Current general ex-		
2 penses	150,000.00	150,000.00
3 To pay the expense of a financial		
4 and actuarial audit of the state		
5 workmen's compensation fund,		
6 actuary to be selected by		
7 the governor of the state of		
8 West Virginia, not to exceed..	5,000.00	5,000.00
9 Audit to be made in accordance		
10 with the provisions of chapter		
11 thirty-three, acts one thousand		
12 nine hundred and eight, and		
13 the appropriation to be dis-		
14 bursed on the requisition of		
15 the chief inspector of public of-		
16 fices.		

SUB-SECTION "I"

Sec. 99. All appropriations made by general law payable
2 out of "special revenue" are hereby authorized payable out of
3 the special revenue collected for the specific purposes.
4 *Provided, however,* that the aggregate expenditures for the
5 following boards shall not in any one year exceed the following

6 amounts: State board of dental examiners, one thousand and
7 five hundred dollars; state board of examiners for nurses, one
8 thousand and five hundred dollars; state board of examiners in
9 optometry, one thousand dollars; state board of embalmers, one
10 thousand dollars; state veterinary examining board, seven hun-
11 dred and fifty dollars.

SUB-SECTION "J"

Sec. 100. For refunding over-payments made into the treas-
2 ury on account of taxes, licenses, fines and commissions, to be
3 paid out of the fund into which they were paid, such an amount
4 as may be necessary for such purposes is hereby appropriated.

Sec. 101. The appropriations herein made to or for any
2 state board or institution shall be drawn from the treasury
3 upon the requisition of the proper officers thereof made upon
4 the auditor at such times and in such amounts as may be
5 necessary for the purposes for which such appropriations are
6 made; and the auditor shall pay the amount named in any
7 such requisition at such time and in such installments as shall
8 be necessary for the purposes for which any such appropria-
9 tion is made. But all requisitions for appropriations for new
10 buildings and substantial betterments, except such as are under
11 control of the board of control, shall be accompanied by the
12 architect's estimate that the amount named in such requisition
13 is needed for immediate use. The auditor shall not issue his
14 warrants to pay any money out of the state treasury unless the
15 same is needed for present use.

16 The members of all state boards or commissions, unless a
17 different rate of compensation is provided by law, shall be
18 allowed four dollars per day for each day necessarily employed
19 as such (including the time spent in going to and returning
20 from the place of meeting) and the actual and necessary ex-
21 penses incurred by them in the discharge of their duties, and
22 no mileage shall be paid. But before payment of any such
23 member of and such compensation or expenses, he shall make
24 up in duplicate and certify to its correctness an itemized state-
25 ment of the number of days spent (giving dates) and of the
26 expenses, which statement shall be filed with the secretary
27 or clerk of the institution, the original whereof the secretary
28 or clerk shall file or preserve in his office, and the duplicate

29 he shall at once forward to the auditor. If any such mem-
30 ber shall wilfully make a greater charge for such services or
31 expenses than truth justifies, he shall be guilty of embezzle-
32 ment and punished accordingly.

Sec. 102. All printing, binding, printing paper and sta-
2 tionery for the state superintendent of free schools shall be
3 paid for out of the general school fund. No printing, binding,
4 or printing paper or stationery for the following named boards,
5 officers or institutions shall be paid for out of the appropriation
6 for public printing, public binding, or for supplying paper
7 or stationery, but shall be paid for out of the appropriations
8 therefor herein made, or out of the expense fund or current
9 general expense fund thereof, namely :

10 The public service commission, the state road commission,
11 the workmen's compensation department, the game and fish
12 commission, the board of dental examiners, state vaccine agents,
13 commissioners of pharmacy, state board of optometry, state
14 board of embalmers, Welch hospital number one, McKendree
15 hospital number two, Fairmont hospital number three, state
16 fire marshal, normal schools, schools for the deaf and blind, the
17 university and all its branches, including the experiment sta-
18 tion, Huntington, Weston and Spencer state hospitals, indus-
19 trial school for boys, the West Virginia collegiate institute and
20 the industrial home for girls, the geological survey, Berkeley
21 Springs board, state colored hospital for insane, state tubercu-
22 losis sanitarium, state colored tuberculosis sanitarium, chil-
23 dren's homes, the Potomac state school, the New River state
24 school, Bluefield colored institute, and all private schools or
25 hospitals receiving state appropriations.

26 Such boards, officers and institutions, except the state super-
27 intendent of free schools, that are herein required to pay for
28 their own printing, stationery and printing paper and binding,
29 have authority to procure the same, or have the same done
30 on requisition of the superintendent of public printing, or
31 may buy such printing and stationery, or have such printing
32 and binding done on competitive bids, under such rules as may
33 be made by the commissioners of public printing.

34 When stationery or printing is procured from the super-
35 intendent of public printing or printing and binding are done
36 or requisition of his office, by such board, officers, or insti-
37 tutions, the superintendent of public printing as to such print-

38 ing, binding, stationery and printing paper, shall certify the
39 cost thereof to the auditor, stating to what officer, board or
40 institution the same was furnished, and the auditor shall charge
41 against the proper fund or appropriation of such officers, insti-
42 tution or board the amount thereof, and credit such amount
43 to the proper appropriations made by this act for public print-
44 ing, binding, stationery and printing paper. *Provided*, that
45 the annual or biennial reports required by law to be made to
46 the governor by such boards, officers and institutions shall be
47 printed and paid for out of the appropriation for public print-
48 ing, public binding and for supplying printing paper and sta-
49 tionery, but all such reports shall be typewritten, or prepared
50 in such a manner that the same shall be legible and suitable
51 for printers' copy, and only so much of any such reports shall
52 be printed as may be ordered by the governor; and no such
53 reports shall be printed by the public printer except on requis-
54 tion therefor, signed by the governor, which requisition shall
55 state the number to be printed and how the same are to be
56 bound. Such officers, boards and institutions as are required
57 by law to make a report to the governor shall place the same in
58 his hands as soon as the same are completed, and within ninety
59 days after the close of the period which they are to cover.

Sec. 103. No sum of money shall be paid out of the treasury
2 for the years ending June thirtieth, one thousand nine hundred
3 and twenty-six, and one thousand nine hundred and twenty-
4 seven, beyond the amounts hereby appropriated, unless the
5 same be provided for by constitution or some general law, and
6 no money shall be hereafter drawn from the treasury to pay
7 the salary of any officers or employees before their services have
8 been rendered.

Sec. 104. Upon the adjournment of this session of the
2 legislature, the clerk of the house and the clerk of the senate,
3 shall jointly make up and furnish the auditor and treasurer,
4 without delay, a certified copy of this and all other acts carry-
5 ing appropriations.

CHAPTER 90

(House Bill No. 360—By Mr. Keatley)

AN ACT to amend and re-enact section twenty-two of chapter
forty-four of the code of West Virginia, as last amended

and re-enacted by chapter forty-six of the acts of the legislature of one thousand nine hundred and eleven, in reference to bridges constructed and maintained by corporations.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

<p>Sec. 22. Bridges, over Ohio, Great Kanawha and Big Sandy rivers; bridge corporations; real estate; purchases</p>	<p>from other companies; subscription to stock; channel spans in bridges; corporate powers.</p>
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Be it enacted by the Legislature of West Virginia:

That section twenty-two of chapter forty-four of the code, as last amended and re-enacted by chapter forty-six of the acts of the legislature of one thousand nine hundred and eleven, be and the same is hereby amended and re-enacted so as to read as follows:

Section 22. Corporations may be formed under the provisions of the first twenty-four sections of chapter fifty-four of the code, for the purpose of bridging the Ohio river. Any such corporation or any railroad corporations hereby authorized to construct and maintain a bridge across said river in the manner now, or which may hereafter be provided by the congress of the United States, upon complying with the requirements, conditions and provisions so prescribed, and not otherwise; and such corporation is authorized to take tolls for the passage of persons, railroad cars, engines, vehicles and other things passing on and over such bridge; and such corporation may obtain the real estate necessary for the construction of its bridge and its approaches thereto, under the provisions of chapter forty-two of the code, and may purchase from any other corporation which may have taken steps toward the erection of a bridge in the manner aforesaid, all the rights, franchises and property it may have acquired; subscriptions to the stock or bonds of any such corporation may be made by counties, districts and municipal corporations, in the manner provided for in chapter thirty-nine of the code; and subscriptions may be made thereto by other corporations, including railroad corporations, with the assent of the holders of two-thirds of the stock of any such corporation, at any general or special meeting of the stockholders; and any corporation heretofore or hereafter formed for the purpose of bridging the Great Kanawha or Big Sandy rivers, or any railroad corporation constructing such bridge, shall have all the privileges accorded by this

29 section to corporations formed for the purpose of bridging
30 the Ohio river; *provided, however*, that every bridge erected
31 across the Great Kanawha river at and above the United
32 States government lock number six and between said lock
33 number six and the United States government lock number
34 three shall have at least one channel span, the center of
35 which shall be in the middle of the channel, usually run by
36 descending coal fleets in high towing stages; said channel
37 span to have a clear opening of four hundred feet at low
38 water line, and be at least sixty-five feet above low water;
39 and, *provided, further*, that every bridge erected across the
40 Kanawha river at and above the United States government
41 lock number three, and below a point six hundred feet below
42 the intersection at low water mark of Nancy's branch with
43 the Great Kanawha river—said point being approximately
44 the head of the slack water pool formed by United States
45 government dam number two—shall have at least one chan-
46 nel span, the center of which shall be in the middle of the
47 channel usually run by descending coal fleets in high water tow-
48 ing stages; said channel span to have a clear opening of four
49 hundred feet at low water line, and be at least sixty-five
50 feet above low water, except in such cases as the United
51 States government may authorize the construction of a
52 bridge of a less height, not, however, to be below the minimum
53 of sixty feet above low water, and said Great Kanawha river
54 may be bridged by any such corporation as is hereinbefore
55 mentioned, at or above the said point six hundred feet below
56 the intersection at low water mark of Nancy's branch with
57 the Kanawha river, subject only to such terms and conditions,
58 if any, as the United States government acting through its
59 authorized officers may prescribe; but the benefits of this
60 section shall not inure to any corporation whose corporate
61 rights have lapsed, been forfeited or become forfeitable.
62 Every corporation formed under the law of this state for the
63 purpose of the construction and maintenance of a bridge or
64 bridges, in addition to the powers heretofore conferred upon
65 or possessed by it, shall have power from time to time, to
66 borrow such sums of money as may be necessary for the pur-
67 poses and business of the company, and to issue bonds, bills
68 of credit or indebtedness and preferred stock, and dispose
69 of the same for any amount so borrowed, and to mortgage

70 or encumber, by deed of trust, its corporate property and
71 franchises, to secure payment of any debt contracted by such
72 corporation, for its purposes and business; but no such mort-
73 gage or deed of trust shall be valid, unless authorized by a
74 resolution adopted by the affirmative votes of the holders of
75 a majority of the stock of the company; and any such mort-
76 gage or deed of trust may include, grant and convey and
77 make subject to the lien thereof, all betterments, improve-
78 ments and works made or constructed, and property and
79 franchises acquired and used in the company's business, after
80 the making of such mortgage or deed of trust, money and
81 debts due the granting company excepted; and the purchaser,
82 at any sale under such mortgage or deed of trust, shall be
83 entitled to such betterments, improvements, works, property
84 and franchises, with the exception aforesaid, as well as the
85 property and franchises granted thereby, owned and possessed
86 by the company, at the time of the making of the mortgage, or
87 deed of trust, under which the sale is made, any other law
88 or statute to the contrary notwithstanding. Such purchaser
89 shall be a corporation in the same manner as is provided in
90 relation to purchasers of railroad property, by sections
91 seventy-two and seventy-three of chapter fifty-four of the
92 code of West Virginia, and all the provisions of said two sec-
93 tions shall apply to the last mentioned corporation. All
94 mortgages or deeds of trust heretofore made by any bridge
95 company incorporated under the laws of this state, whether the
96 same shall have been executed by virtue of a resolution adopt-
97 ed by a vote of the stockholders, or shall have been executed by
98 virtue of a resolution adopted by the board of directors of such
99 corporation without any action on the part of the stockhold-
100 ers thereof, which purport to grant and convey property and
101 franchises of the granting company owned and possessed at the
102 time of making the mortgage or deed of trust, or such property
103 and franchises, together with property or franchises, or both
104 of such company which it may have acquired subsequently to
105 the making of such mortgage or deed of trust, shall be as valid
106 and effectual for the purpose of effecting such granting and
107 conveyance, and make the same as effectually as if this section
108 as amended by this act had been in full force before and at the
109 time of the execution of such mortgages or deeds of trust; and
110 purchasers at any sales thereunder shall have the same rights,

111 powers and privileges as are by this section conferred upon the
 112 purchasers at sales made under mortgages and deeds of trust
 113 executed by such companies after this act takes effect.

CHAPTER 91

(House Bill No. 443—By Mr. Weiss)

AN ACT to license and regulate the business of making loans in sums of three hundred dollars or less, secured or unsecured, at a greater rate of interest than six per centum per annum, prescribing the rate of interest and charge therefor, and penalties for the violation thereof, and regulating the assignment of wages or salaries, earned or to be earned, when given as security for any such loan, and for wage assignments given as the consideration for any sale.

[Passed April 1, 1925; in effect 90 days from passage. Approved by the Governor.]

- | Sec. | Sec. |
|--|---|
| 1. Who shall engage in making loans of \$300 or less at more than six per cent interest per annum. | 11. Licensee shall not publish or distribute statement regarding rates, false or calculated to deceive. |
| 2. License, application for; fee for same. | 12. Rate of interest licensee may receive; on unpaid balances only; lawful fees to public officials; loans greater than \$300 six per cent per annum. |
| 3. Bonds of licensee. | 13. Licensee shall deliver to borrower statement; permit payment prior to maturity; give plain receipt; cancel and return note or assignment when paid. |
| 4. Licenses, to whom and when issued; not assignable; to be kept posted. | 14. Licensee; prohibitions as to judgment, power of attorney and note. |
| 5. Additional bond; when license shall be revoked. | 15. What is deemed interest on loan. |
| 6. License may be revoked, when; irrevocably revoked when. | 16. When assignment, order, chattel mortgage or lien valid; when employer liable to licensee. |
| 7. Licensee shall make no loan under any other name or at any other place of business. Same licensee may hold separate license for different places. | 17. Prohibitions of surety; pretended purchase; liability for fraud. |
| 8. Licensing official shall approve change of place of license. | 18. Penalties. |
| 9. Licensing official may investigate loans; may compel attendance of and examine under oath the licensee. | 19. Banks, trust companies, loan associations, pawnbrokers not in purview; conflicting acts repealed. |
| 10. Licensee shall keep books prescribed by licensing official. | |

Be it enacted by the Legislature of West Virginia:

That it shall be unlawful and punishable by fine or imprisonment, or both, for any person or persons, firm, co-partnership or corporation to engage in the business of making loans of money, credit, goods or things in action in the amount or to the value of three hundred dollars or less, unless he, it or they shall be licensed by the state for such purpose, and prescribing penalties therefor.

Section 1. That no person, co-partnership or corporation
 2 shall engage in the business of making loans of money, credit,

3 goods or things in action in the amount or to the value of three
4 hundred dollars or less, and charge, contract for or receive a
5 greater rate of interest than six per centum per annum there-
6 for, except as authorized by this act, without first obtaining a
7 license from the commissioner of banking hereinafter called the
8 licensing official.

Sec. 2. Application for such license shall be in writing and
2 shall contain the full name and address, both of the residence
3 and place of business, of the applicant; and if the applicant is
4 a co-partnership, of every member thereof; or if a corporation,
5 of each officer thereof; also the county and municipality, with
6 street and number, if any, where the business is to be conducted.
7 Every such applicant at the time of making such application
8 shall pay to the licensing official the sum of one hundred dol-
9 lars as an annual license fee and in full payment of all expenses
10 for examinations under and for administration of this act;
11 *provided*, that if the license is issued for a period of less than
12 twelve months, the license fee shall be pro-rated according to the
13 number of months such license shall run.

Sec. 3. The applicant shall also at the same time file with
2 the licensing official a bond in which the applicant shall be the
3 obligor, in the sum of one thousand dollars, with one or more
4 sureties, whose liability as such sureties shall not exceed the
5 sum of one thousand dollars in the aggregate, to be approved
6 by the licensing official, and said bond shall run to the state of
7 West Virginia for the use of the state and of any person or
8 persons who may have a cause of action against the obligor of
9 said bond under the provisions of this act. Such bond shall be
10 conditioned that said obligor will conform to and abide by each
11 and every provision of this act and will pay to the state and to
12 any such person or persons any and all moneys that may be-
13 come due or owing to the state or to such person or persons
14 from said obligor under and by virtue of the provisions of this
15 act.

Sec. 4. Upon the filing of such application and the approval
2 of said bond and the payment of said fee the licensing official
3 shall issue a license to the applicant to make loans in accordance
4 with the provisions of this act for a period which shall expire
5 on the thirtieth day of June next following the date of its issu-
6 ance. Such license shall not be assignable, and shall be kept
7 conspicuously posted in the place of business of the licensee.

Sec. 5. If in the opinion of the licensing official the bond shall at any time appear to be insecure or exhausted or otherwise doubtful, an additional bond in the sum of not more than one thousand dollars, satisfactory to the licensing official, shall be filed within ten days after notice by the licensing official to the licensee; and upon failure of the obligor to file such additional bond the license shall be revoked by the licensing official.

Sec. 6. The licensing official may, upon notice to the licensee and reasonable opportunity to be heard, revoke such license if the licensee has violated any provision of this act; and in case the licensee shall be convicted by a court a second time of a violation of section twelve of this act the licensing official shall revoke such license; *provided*, that the second offense shall have occurred after a prior conviction; and thereafter no license shall be issued to such licensee, nor to the husband or wife of the licensee, nor to any co-partnership or corporation of which he is a member or officer.

Sec. 7. No person, co-partnership or corporation so licensed shall make any loan provided for by this act under any other name or at any other place of business than that named in the license. Not more than one place of business shall be maintained under the same license, but the licensing official shall issue more than one license to the same licensee upon the payment of an additional license fee and the filing of an additional bond for each license.

Sec. 8. Whenever the licensee shall change his place of business he shall at once give written notice thereof to the licensing official who shall attach to the license his approval in writing of the change.

Sec. 9. The licensing official, for the purpose of discovering violations of this act, may either personally or by any person designated by him, at any time and as often as he may desire, investigate the loans and business of every licensee and of every person, co-partnership and corporation by whom or by which any such loan shall be made, whether such person, co-partnership or corporation shall act or claim to act as principal, agent or broker, or under or without the authority of this act; and for that purpose he shall have free access to the office or place of business, books, papers, records, safes and vaults of all such persons, co-partnerships and corporations; he shall also

12 have authority to compel the attendance of and to examine
13 under oath all persons whomsoever whose testimony he may
14 require relative to such loans or business.

Sec. 10. The licensee shall keep such books and records in
2 his place of business as in the opinion of the licensing official
3 will enable the licensing official to determine whether the pro-
4 visions of this act are being observed. Every such licensee
5 shall preserve the records of final entry used in such business,
6 including cards used in the card system, if any, for a period of
7 at least two years after the making of any loan recorded
8 therein.

Sec. 11. No licensee or other person, co-partnership or cor-
2 poration shall print, publish or distribute, or cause to be
3 printed, published or distributed in any manner whatsoever
4 any written or printed statement with regard to the rates,
5 terms or conditions for the lending of money, credit, goods or
6 things in action in amounts of three hundred dollars or less,
7 which is false or calculated to deceive.

Sec. 12. Every person, co-partnership and corporation li-
2 censed hereunder may loan any sum of money not exceeding in
3 amount the sum of three hundred dollars and may charge, con-
4 tract for and receive thereon interest at a rate not to exceed
5 three and one-half per centum per month. Interest shall not be
6 payable in advance or compounded and shall be computed on
7 unpaid balances only. In addition to the interest herein pro-
8 vided for, no further or other charge or amount whatsoever for
9 any examination, service, brokerage, commission or other thing
10 or otherwise shall be directly or indirectly charged, contracted
11 for or received, except the lawful fees, if any, actually and
12 necessarily paid out by the licensee to any public officer for
13 filing or recording or releasing in any public office any instru-
14 ment securing the loan, which fees may be collected when the
15 loan is made or at any time thereafter. If interest or charges
16 in excess of those permitted by this act shall be charged, con-
17 tracted for or received, the contract of loan shall be void and
18 the licensee shall have no right to collect or receive any prin-
19 cipal, interest, or charges whatsoever.

20 No licensee shall directly or indirectly charge, contract for
21 or receive any interest or consideration greater than six per
22 centum per annum upon the loan, use or forbearance of money,
23 goods or things in action, or upon the loan, use or sale of credit,

24 of the amount or value of more than three hundred dollars.
25 The foregoing prohibition shall also apply to any licensee who
26 permits any person, as borrower or as endorser, guarantor or
27 surety for any borrower, or otherwise, to owe directly or con-
28 tingently or both to the licensee at any time the sum of more
29 than three hundred dollars for principal.

Sec. 13. Every licensee shall deliver to the borrower at the
2 time a loan is made a statement in the English language show-
3 ing in clear and distinct terms the amount and date of the loan
4 and of its maturity, the nature of the security, if any, for the
5 loan, the name and address of the borrower and of the licensee
6 and the rate of interest charged, and upon such statement there
7 shall be printed in English a copy of section twelve of this act.
8 The licensee shall permit payment of the loan in whole or in
9 part prior to its maturity with interest on such payment to the
10 date thereof. The licensee shall give to the borrower a plain
11 and complete receipt for any and all payments made on ac-
12 count of any loan at the time such payments are made. Upon
13 re-payment of the loan in full the licensee shall mark indelibly
14 every paper signed by the borrower with the word "paid" or
15 "cancelled" and shall release any mortgage or deed of trust,
16 restore any pledge, cancel and return any note, and cancel and
17 return any assignment given by the borrower as security.

Sec. 14. No licensee shall take any confession of judgment
2 or any power of attorney. Nor shall he take any note, promise
3 to pay or security that does not state the actual amount of the
4 loan, the time for which it is made and the rate of interest
5 charged, nor any instrument in which blanks are left to be
6 filled after execution.

Sec. 15. The payment of three hundred dollars or less in
2 money, credit, goods or things in action as a consideration for
3 any sale, assignment or order for the payment of wages, salary,
4 commissions or other compensation for services, whether earned
5 or to be earned, shall be deemed a loan within the provisions of
6 this act secured by such assignment; and the amount by which
7 such assigned compensation exceeds such payment shall be
8 deemed interest upon such loan from the date of such payment
9 to the date such compensation is payable. Such loan and such
10 assignment shall be governed by and subject to the provisions
11 of this act.

Sec. 16. No assignment of or order for the payment of any
2 salary, wages, commissions or other compensation for services,

3 earned or to be earned, given to secure any such loan shall be
4 valid unless the amount of such loan is paid to the borrower
5 simultaneously with its execution; nor shall any such assign-
6 ment or order, or any chattel mortgage or other lien on house-
7 hold furniture then in the possession and use of the borrower
8 be valid unless it be in writing signed in person by the bor-
9 rower; nor, if the borrower is married, unless it be signed in
10 person by both husband and wife; *provided*, that written assent
11 of a spouse shall not be required when husband and wife have
12 been living separate and apart for a period of at least five
13 months prior to such assignment, order, mortgage or lien.

14 Under any such assignment or order for the payment of fu-
15 ture salary, wages, commissions or other compensation for serv-
16 ices, given as security for a loan made under this act, a sum
17 equal to ten per centum of the borrower's salary, wages, com-
18 missions or other compensation for services shall be collectible
19 from the employer of the borrower by the licensee at the time
20 of each payment of salary, wages, commissions or other compen-
21 sation for services from the time that a copy of such assign-
22 ment verified by the oath of the licensee or his agent, together
23 with a similarly verified statement of the amount unpaid upon
24 such loan, is served upon the employer.

Sec. 17. No person, co-partnership or corporation, except as
2 authorized by this act, shall directly or indirectly charge, con-
3 tract for or receive any interest or consideration greater than
4 six per centum per annum upon the loan, use or forbearance of
5 money, goods or things in action, or upon the loan, use or sale
6 of credit, of the amount or value of three hundred dollars or
7 less. The foregoing prohibition shall apply to any person who
8 as security for any such loan, use or forbearance of money,
9 goods or things in action, or for any such loan, use or sale of
10 credit, makes a pretended purchase of property from any per-
11 son and permits the owner or pledgor to retain the possession
12 thereof, or who by any device or pretense of charging for his
13 services or otherwise seeks to obtain a greater compensation
14 than is authorized by this act. No loan for which a greater
15 rate of interest or charge than is allowed by this act has been
16 contracted for or received, wherever made, shall be enforced in
17 this state, and every person in any wise participating therein
18 in this state shall be subject to the provisions of this act.

Sec. 18. Any person, co-partnership, or corporation and the
2 several officers and employees thereof who shall violate any of

3 the provisions of sections one, seven, eleven, twelve or seven-
4 teen of this act shall be guilty of a misdemeanor and upon con-
5 viction thereof shall be punished by a fine of not more than
6 five hundred dollars or by imprisonment of not more than six
7 months, or by both such fine and imprisonment in the discre-
8 tion of the court.

Sec. 19. This act shall not apply to any person, co-partner-
2 ship or corporation doing business under any law of this state
3 or of the United States relating to banks, trust companies,
4 building and loan associations, or to licensed pawnbrokers.

5 All acts and parts of acts in conflict or inconsistent with the
6 provisions of this act are hereby repealed.

CHAPTER 92

(House Bill No. 542—By Mr. Solina)

AN ACT to raise additional public revenue by imposing an occu-
pational tax at flat rates upon distributors of and retail
dealers in gasoline in this state, and by imposing a special
excise tax upon persons herein specified and based on quanti-
ties of gasoline ("gasoline" as herein defined), sold, pur-
chased, or used in West Virginia; to provide for the ascer-
tainment, collection and application of such taxes; to require
reports by certain persons, firms, corporations and associations
of persons; to provide penalties for violations of the terms
hereof; and to repeal chapter thirty-four, acts of the legis-
lature of one thousand nine hundred and twenty-three.

[Passed April 24, 1925; in effect from July 1, 1925. Approved by the Governor.]

Sec.

1. Definitions.
2. License tax, distributor and dealer; duty of person becoming dealer; penalty for failure.
3. Amount of tax; measure; in addition to all other taxes.
4. Statement of distributor, what to contain.
5. Statement of retail dealer, what to contain.
6. Distributor to pay additional tax on gallonage, when.
7. Statement of importer, what to contain.
8. Distributor may elect to pay tax on basis of quantity produced.
9. Provisions regarding gas exported from state or imported.
10. Common carrier to file statement,

Sec.

- what to contain.
11. Non-resident shipper's statement, what to contain.
12. Duties of tax commissioner.
13. Failure to file return in time limit; penalty; failure to pay tax in time limit; recourse; double penalty for wilful failure.
14. Invoice, what to contain.
15. Who are deemed licensees, derelictions, how punishable.
16. Distributor reimbursed for leakage in transit.
17. Distributor's record.
18. Taxes for road purposes.
19. Tax commissioner's duties.
20. Provisions of act severable.
21. Chapter thirty-four, acts nineteen twenty-three repealed.

Be it enacted by the Legislature of West Virginia:

That an occupational tax for raising additional public revenue is imposed upon distributors of and retail dealers in gasoline in this state, and a special excise tax upon persons herein specified, based upon the quantity of gasoline sold, purchased or used in West Virginia; providing for the ascertainment, collection and application of such taxes, and to require reports upon all transactions herein described; and providing penalties for violations thereof.

Section 1. That when used in this act the term "gasoline" shall include the liquid derived from petroleum or natural gas commonly known and sold as gasoline, and distillate, benzene, benzol, naphtha, liberty fuel, and such other volatile and inflammable liquids produced or compounded for the purpose of operating or propelling motor vehicles, or which is usable for such purpose (and including kerosene, fuel oil and crude oil only when used as a motor vehicle fuel upon any public highway); the term "person" or the term "company" includes any individual, firm, co-partnership, joint adventure, association, corporation, trust and any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context, and when used in connection with the penalties imposed by this act shall mean and include the officers, directors, trustees or members of any firm, co-partnership, joint adventure, association, corporation, trust, or any other group acting as a unit; the term "distributor" means distributor of gasoline and includes every person who refines, produces, manufactures, compounds or blends gasoline in this state for use or for sale to jobbers or consumers, and every person who is now engaged, or who may hereafter engage, in his own name or in the name of his representative or agent in this state in the selling of gasoline for the purpose of resale or distribution; the term "retail dealer" means retail dealer in gasoline and includes any person not a distributor within the meaning of the previous clause who sells gasoline in this state to consumers only; the term "importer" means importer of gasoline and includes any person who purchases or obtains gasoline outside this state and uses the same within the state; the term "state tax commissioner" or "tax commissioner" means the state tax commissioner of the State of West Virginia.

Sec. 2. Every distributor shall pay an annual license tax of five dollars for each distributing station or place of business or agency located in this state at or from which gasoline is sold for re-sale or distribution or at which gasoline is produced, refined or compounded, and an annual license tax of one dollar for each filling station or place of business in this state from which gasoline is sold at retail; and such license tax shall be payable on or before the first day of July, one thousand nine hundred and twenty-five, and annually thereafter.

Every other retail dealer not covered in the previous paragraph shall pay an annual license tax of one dollar for each filling station or place of business in this state at which gasoline is sold, and such license tax shall be payable on or before the first day of July, one thousand nine hundred and twenty-five, and annually thereafter.

It shall be the duty of every person intending to deal in gasoline in this state to make application to the state tax commissioner for a license so to do, which application shall be accompanied by the amount of the license tax herein required and shall state whether the applicant intends to engage in such business as a distributor or retail dealer, and shall designate the intended place or places of business. A license certificate for any person commencing business after January first in any year may be issued for the half year upon payment of half the annual license tax herein required. The license certificate shall be posted or displayed and so kept at all times in public view at the place of business for which the same was issued. If any person shall fail, neglect or refuse to pay the license tax herein imposed within the time prescribed, there shall automatically accrue a penalty of fifty per centum thereof, and the tax and the penalty shall be collected as hereinafter provided.

Upon the payment of the license tax herein imposed the distributor or retail dealer shall be duly licensed to transact in this state the business for which the license is issued, during the period for which the same is issued, upon the condition that he file the returns and pay the special excise tax hereinafter imposed within the time and in the manner herein after prescribed.

Sec. 3. There is hereby imposed upon every person a distributor, retail dealer or importer under the terms of this act an excise tax based on the quantities of all gasoline sold, purchased or used in this state on and after July one, 1941 one thousand nine hundred and twenty-five, (except as herein provided), which tax shall be equivalent to three cents per gallon thereof and shall be paid as hereinafter provided. A distributor shall use as the measure of the tax the gallonage sold for whatever use in this state and the gallonage used by him for whatever purpose in this state; a retail dealer shall use as the measure of the tax the gallonage purchased or obtained by him, and an importer shall use as the measure of the tax the gallonage purchased by him for use in this state for whatever purpose.

The special excise tax imposed by this act shall be paid by the person first purchasing, selling or using in this state the gallonage of gasoline which under this act shall form the measure of said tax; but in no case shall any such gallonage be used more than once in determining taxes due hereunder. The taxes imposed by this act are in addition to all other taxes now imposed or prescribed by law.

Sec. 4. Every distributor selling gasoline in this state shall within thirty days after the close of each month transmit to the state tax commissioner a statement, verified by oath or affirmation, on such forms as the tax commissioner shall prescribe, of all gasoline sold or used by such distributor during the month to be covered, and if any of the gallonage sold or used by such distributor had not previously been included in the measure of tax under the provisions of this act, he shall at the same time pay to the tax commissioner the amount of tax due for such month. *Provided*, that all gallonage furnished by any distributor to any of its service stations in this state shall be deemed to have been sold and shall be treated and considered, in computing the tax, in the same manner as though the same had been sold to dealers or to other persons.

The state tax commissioner shall have the right to require any distributor to furnish in his return such other and further information as, in his judgment, may be essential to a proper ascertainment, assessment and collection of the tax herein provided for.

Sec. 5. Every retail dealer shall within thirty days after the close of each month transmit to the state tax commissioner a statement, verified by oath or affirmation, on such forms as the tax commissioner shall prescribe, of all gallonage received, purchased or obtained by such retail dealer during the month to be covered, which statement shall show the name and address of the person from whom each purchase of gasoline was made; the point from which shipped or delivered; the point at which received; the number and initials of the car if shipped by rail; the name of the boat or barge if shipped by water; or if delivered by other means, the method of delivery; and the quantity of each purchase. If any of the gallonage purchased or obtained by any such dealer had not been previously included in the measure of tax under the provisions of this act, said dealer shall at the time of making the return pay to the tax commissioner the amount of tax due for such month. *Provided*, that retail dealers who purchase or obtain gasoline from within West Virginia only shall not be required to file returns monthly, but shall within thirty days after the close of each six-months' period transmit to the tax commissioner a statement, under oath or affirmation, on such forms as the tax commissioner shall prescribe, of all gallonage purchased or obtained by such dealer during the six-months' period to be covered.

Sec. 6. Every distributor and every retail dealer having on hand at the beginning of business July first, one thousand nine hundred and twenty-five, any gallonage on which the two cent tax imposed by chapter thirty-four, acts of the legislature of one thousand nine hundred and twenty-three, has been paid, shall accurately ascertain such gallonage and shall, within thirty days thereafter, report to the tax commissioner, on forms which the tax commissioner shall prescribe, such gallonage and shall at the same time pay to the tax commissioner an additional tax equivalent to one cent on each gallon thereof.

Sec. 7. Every importer shall within thirty days after the close of each month transmit to the tax commissioner a statement, on such forms as the tax commissioner shall prescribe, of all gallonage purchased or obtained by such importer during the month to be covered, which statement shall show the name and address of the person from whom each purchase was made; the point from which shipped or delivered; the point at which

8 received; the date of each shipment or purchase; and the quan-
9 tity of each shipment or purchase; and if any of the gallonage
10 purchased or obtained by such importer had not been previously
11 included in the measure of tax under the provision of this act,
12 he shall at the same time pay to the tax commissioner the amount
13 of tax due for such month.

Sec. 8. Any distributor may elect to pay his tax upon the
2 basis of the quantity produced, refined, purchased or received
3 during the month instead of the quantity sold and used; and
4 the quantity of gasoline in the possession of any person electing
5 to make report and pay taxes on purchases, at the beginning
6 of business July first, one thousand nine hundred and twenty-
7 five, shall be deemed and treated as a purchase as of that date.

Sec. 9. This act shall not be construed to require the in-
2 clusion in the measure of tax of any gasoline when the same
3 is exported from this state to another state or nation, nor to
4 require the inclusion in the measure of tax any gasoline shipped
5 in interstate commerce while the same is in transportation; but
6 the gallonage of gasoline shipped from another state shall be
7 included in the measure of tax by the person first selling or
8 using the same after the same shall have been commingled
9 with the general mass of property in this state. *Provided*, that
10 distributors making shipments of gasoline into West Virginia
11 may, as a matter of convenience to purchasers located in West
12 Virginia, assume and pay the tax herein imposed when permis-
13 sion so to do is first obtained from the tax commissioner.

Sec. 10. The state tax commissioner is authorized and em-
2 powered to require every railway or railroad company, water
3 transportation company, and every other person transporting
4 gasoline to points in this state to furnish a statement on forms
5 which the tax commissioner may prescribe to be delivered within
6 sixty days after the close of each month showing all quantities
7 of gasoline delivered at points in West Virginia during the
8 month to be covered, giving the name and address of the con-
9 signor; the name and address of the consignee; the point from
10 which shipped; the point at which delivered; the date of ship-
11 ment; the date of delivery; the number and initials of the car
12 if shipped by rail; the name of the boat or barge if shipped by
13 water; or if delivered by other means, the method of delivery;
14 and the quantity of each shipment.

Sec. 11. Every person domiciled in another state who makes 2 shipments of gasoline consigned to points in West Virginia shall 3 within thirty days after the close of each month transmit to 4 the tax commissioner, on such forms as the tax commissioner 5 shall prescribe, a statement verified by oath or affirmation of 6 all sales or shipments of gasoline made to points in West Vir- 7 ginia during the month to be covered, showing the name and 8 address of each purchaser or consignee; the date of each ship- 9 ment; the point from which shipped; the point to which shipped; 10 the number and initials of the car if shipped by rail; the name 11 of the boat or barge if shipped by water; and the quantity of 12 each shipment.

13 The statements required in sections four, five, seven, ten 14 and eleven shall be filed for each month regardless of whether 15 or not the same shows sales or purchases during any month and 16 regardless of whether or not a tax is due.

17 All payments of taxes imposed by this act shall be made by 18 certified check, cashier's check, bank draft or money order, pay- 19 able to the state tax commissioner.

Sec. 12. If any distributor, retail dealer or importer fail, 2 refuse, or neglect to make any statement required herein, the 3 tax commissioner or his duly appointed agent, shall have power 4 to examine the books, records and papers of such distributor, 5 dealer or importer, to ascertain the amount of tax due under 6 the provisions of this act; and to that end, shall have power 7 to examine witnesses; and if any witness shall fail or refuse 8 to appear at the request of the tax commissioner or his duly 9 appointed agent, or refuse access to the books, records or papers, 10 the tax commissioner shall certify the facts and names of the 11 witnesses failing or refusing to appear, or refusing access to 12 books or papers, to the circuit court of the county having juris- 13 diction of the party, and said court shall thereupon issue sum- 14 mons to the said party to appear before the tax commissioner, or 15 his agent, at a place designated within the jurisdiction of said 16 court, on a day fixed, to be continued as occasion may require, 17 and give such evidence and lay open for inspection such books 18 and papers as may be required for the purpose of ascertaining 19 the amount of tax, if any, due. The tax commissioner, or his 20 agent, shall from such examination determine and fix the amount 21 of the excise tax and penalty due the state from such delinquent, 22 and shall add the cost of the examination, and shall proceed

23 to collect the amount of tax and penalty, and the cost of the ex-
24 amination, in the manner provided in section thirteen for the
25 collection of delinquent taxes.

26 The tax commissioner, or his duly appointed agent, shall have
27 power to examine the books and papers of any person per-
28 taining to gasoline sales or receipts, to verify the accuracy of
29 any return made under the provisions of this act, and if access
30 to the books and papers be refused, the tax commissioner shall
31 proceed as above provided. In order that the tax commissioner
32 may have additional means of checking the accuracy of the re-
33 ports made, and determining the amount of tax due by any
34 person, the books, records and other documents of common
35 carriers, relative to the transportation of gasoline, are hereby
36 declared accessible to the tax commissioner, or his duly appointed
37 agent.

Sec. 13. If any distributor, retail dealer or importer fail,
2 neglect or refuse to file the return due for any month or to pay
3 the excise tax due for any month within the time prescribed for
4 the filing of such return or the payment of such tax, there shall
5 automatically accrue a penalty equal to one-half of one cent
6 on each gallon of gasoline sold or used during the month or
7 on each gallon of gasoline purchased during the month, in ac-
8 cordance with the method of reporting required or adopted,
9 the amount of which penalty shall in no case be less than twenty-
10 five dollars (or if no sales or purchases were made, a penalty of
11 twenty-five dollars) plus an additional penalty of two per cent-
12 um of such tax and penalty for each month the same remains
13 unpaid, such tax and penalty to be paid or collected in the same
14 manner as the tax imposed by this act is required to be paid
15 or collected. If any such person shall fail to pay such tax or
16 penalty within sixty days after the same shall be due, the tax
17 commissioner shall cause appropriate action for the recovery
18 thereof to be brought in the name of the state, and it shall be
19 the duty of the attorney general of this state or the prosecuting
20 attorney of any county to commence and prosecute such suit
21 at the request of the tax commissioner, and judgment shall
22 be rendered for the amount found to be due, together with costs,
23 and the amount collected shall be paid into the state treasury.
24 *Provided, however,* that if it shall be found that such failure
25 to pay was wilful on the part of such person judgment shall be
26 rendered for double the amount of tax and penalty found to be
27 due, with costs. Judgments for such tax and penalty and costs

28 shall constitute and remain a preferred lien upon the property,
29 assets and effects of such person until paid. Such suits shall
30 be by notice of motion for judgment, an action in debt or as-
31 sumpsit, or by any other appropriate remedy under the general
32 law, and shall be tried by preference. Delinquent license taxes
33 imposed by section two of this act shall be collected in like
34 manner.

Sec. 14. Each dealer when selling gasoline to any other
2 dealer or person shall render an invoice to the purchaser and
3 upon such invoice the dealer so selling shall plainly state
4 whether or not the gallonage of gasoline will be included in the
5 measure of tax to be paid by him, and the person so buying and
6 receiving such gasoline may, as regards his report to the tax
7 commissioner, fully rely upon the statements so made in such in-
8 voice.

Sec. 15. If any person after the thirtieth day of June, one
2 thousand nine hundred and twenty-five, shall engage or con-
3 tinue in the activity for which the special excise tax herein pro-
4 vided for is imposed, he shall have been deemed to have ap-
5 plied for and to have duly obtained from the state of West Vir-
6 ginia a proper license therefor for the month ending on the last
7 day thereof next following the date of the beginning of any such
8 activity, upon the condition that he shall pay the tax accruing
9 to the State of West Virginia and at the time required by this
10 act; and he shall be duly licensed. And in the case of any per-
11 son proceeding in any such activity without the license granted
12 him through the payment of the tax herein levied, the state tax
13 commissioner is directed to bring action in the circuit court
14 of the county having jurisdiction of the party with a view to
15 enjoining said person from engaging or continuing in such ac-
16 tivity. Further, if any person distributes or sells gasoline after
17 June thirtieth, one thousand nine hundred and twenty-five, with-
18 out having paid the license tax imposed herein and without
19 having at all times conspicuously displayed at his place of
20 business or agency a license certificate evidencing the payment
21 of said license tax for the then current year or fractional part
22 thereof, or if any distributor, retail dealer, importer, or other
23 person making deliveries of gasoline in West Virginia, or any
24 person required to file returns under section eleven of this act,
25 or the officers, directors, trustees or members of any firm, co-
26 partnership, joint adventure, association, corporation, trust, or

27 any other group acting as a unit, fail, refuse, or neglect to make
28 the returns required or to pay the special excise tax imposed
29 within the time and in the manner prescribed, or who shall re-
30 fuse to permit the tax commissioner, or his duly appointed
31 agent, to examine the books or papers of such person, pertaining
32 to gasoline sales or receipts, or who makes any incomplete, false
33 or fraudulent returns hereunder, or who does, or attempts to
34 do, anything whatsoever to avoid the full disclosure of the
35 amount of business done, or to avoid the payment of the whole
36 or any part of the tax due, shall be guilty of a misdemeanor,
37 and, upon conviction, shall be fined not exceeding one thousand
38 dollars, or in the case of an individual, he may be imprisoned
39 not exceeding six months, or both. The penalties imposed by
40 this section shall be in addition to the penalties imposed by sec-
41 tions two and thirteen of this act.

Sec. 16. Any distributor who shall export gasoline from West
2 Virginia to any other state or nation or who shall in the con-
3 duct of his wholesale gasoline business sustain losses of gaso-
4 line by reason of leakage or evaporation, which gasoline shall
5 have been previously included in the measure by which the ex-
6 cise tax imposed by this act is determined, shall be reimbursed
7 and repaid a sum equal to the amount of such excise tax on the
8 gallonage so exported or lost, upon his presenting to the tax
9 commissioner a sworn statement, on forms prescribed by the tax
10 commissioner, of the quantity of and full details concerning
11 such gasoline exported or lost; *provided*, that application for re-
12 funds herein provided for shall be filed with the tax commis-
13 sioner within thirty days after the close of the month during
14 which such gasoline was exported or lost, or not at all.

Sec. 17. Every distributor, retail dealer and importer shall
2 keep a record in such form as the tax commissioner shall pre-
3 scribe of all sales and purchases of gasoline; which record shall
4 include pertinent information contained in invoices or bills of
5 all purchases and shall at all times during the business hours
6 of the day be subject to inspection by the tax commissioner or
7 his agent.

Sec. 18. All taxes collected under the provisions of this act
2 shall be paid into the state treasury and shall be used only for
3 the purpose of the reconstruction, maintenance, and repair of
4 roads and highways, and for the payment of the interest on state
5 bonds issued for road purposes. Any moneys received by the

6 state and required to be repaid shall be treated as moneys
7 erroneously paid into the treasury and refunds shall be made
8 and be payable out of the same fund into which paid.

Sec. 19. The state tax commissioner is hereby invested with
2 full power and authority and it is hereby made his duty to pre-
3 scribe forms for returns and assessments and to make, issue
4 and put in force all necessary and needful rules and regulations
5 for ascertaining, assessing and collecting the taxes imposed by
6 this act and the enforcement of the provisions thereof.

Sec. 20. The provisions of this act are severable and if any
2 shall be held unconstitutional the decision of the court shall
3 not affect or impair any of the remaining provisions hereof. It
4 is hereby declared as a legislative intent that this act would have
5 been adopted had such unconstititutional provisions not been in-
6 cluded therein.

Sec. 21. Chapter thirty-four of the acts of the legislature of
2 one thousand nine hundred and twenty-three is hereby repealed,
3 but said chapter shall remain in full force and effect for the
4 ascertainment, assessment and collection of all taxes and penalties
5 which have accrued or may accrue thereunder up to and includ-
6 ing June thirtieth, one thousand nine hundred and twenty-five.

CHAPTER 93

(House Bill No. 666—By Mr. Sydenstricker)

AN ACT to amend and re-enact section seven, of chapter one
hundred and forty-seven, code, relating to the offense of bribery
of court commissioners, jurors, justices of the peace, umpires,
auditors or arbitrators.

[Passed April 1, 1925; In effect 90 days from passage. Approved by the Governor.]

Sec.

7. Bribery; offense punishable; how.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-seven of
the code of West Virginia be amended so as to read as follows:

Section 7. Any person who gives or offers, directly or
2 through any other person or persons, or promises, directly or
3 indirectly, to give, any money or other thing of value to a com-
4 missioner appointed by a court, auditor, justice of the peace,

5 arbitrator, umpire, or juror (although not empaneled) with
 6 intent to bias his opinion or influence his decision in relation
 7 to any matter in which he is acting or is to act; and any such
 8 commissioner, auditor, justice of the peace, arbitrator, umpire
 9 or juror, who corruptly takes or receives such money, or other
 10 thing, or who agrees to take such money or other thing to bias
 11 or influence his opinion or action or both, shall be guilty of a
 12 felony, and upon conviction shall be confined in the peniten-
 13 tiary of this state not less than one nor more than ten years,
 14 and fined in addition thereto in a sum not to exceed five thou-
 15 sand dollars.

16 All acts or parts of acts inconsistent herewith are hereby
 17 repealed.

CHAPTER 94

(House Bill No. 692—By Mr. Harper, of Pendleton)

AN ACT authorizing county courts to lay a levy for the building
 and furnishing of a court house, in instances wherein the same
 has been destroyed by fire, storm or other casualty.

[Passed April 23, 1925; in effect from passage. Approved by the Governor.]

Sec. 1. County court may levy to build | and equip court house, when;
 inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county wherein the court
 2 house thereof has been, or hereafter shall be, destroyed by fire,
 3 storm or other casualty, and wherein the levy provided for by
 4 other laws will not raise sufficient money to rebuild and furnish
 5 the same, may, in addition to the levies provided for by other
 6 laws, lay a special building levy annually, not to exceed twenty-
 7 five cents on the one hundred dollars valuation on the taxable
 8 property in said county, for not exceeding four years, for the
 9 sole and only purpose of raising funds necessary to rebuild and
 10 furnish such new court house.

11 All acts or parts of acts inconsistent herewith are hereby
 12 repealed.

CHAPTER 95

(House Bill No. 406—By Mr. Hill)

AN ACT to amend and re-enact section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of one thousand nine hundred and nine, regular session, relating to offenses against the peace.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

7. Carrying deadly weapons misdemeanor; felony, when; penalty; duty prosecuting attorney; boys under eighteen, provisions for; state license, how obtained; bond; provision for carrying weapons on own premises; provi-

sion for agents of express companies, bond for; justice may authorize carrying, when; ministerial officers to report; failure to report a misdemeanor; penalty; officers who may carry such weapons; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia of one thousand nine hundred and nine, regular session, be amended and re-enacted so as to read as follows:

Section 7. If any person, without a state license therefor, 2 carry about his person any revolver or other pistol, dirk, bowie 3 knife, slung shot, razor, billy, metallic or other false knuckles, or 4 any other dangerous or deadly weapon of like kind and charac- 5 ter, he shall be guilty of a misdemeanor, and upon conviction 6 thereof be confined in the county jail for a period of not less 7 than six nor more than twelve months for the first offense; but 8 upon conviction of the same person for the second offense in 9 this state, he shall be guilty of a felony and be confined in the 10 penitentiary not less than one nor more than two years, and in 11 either case fined not less than fifty nor more than two hundred 12 dollars, at the discretion of the court; and it shall be the duty 13 of the prosecuting attorney in all cases to ascertain whether or 14 not the charge made by the grand jury is the first or second of- 15 fense, and if it shall be the second offense it shall be so stated in 16 the indictment returned, and the prosecuting attorney shall in- 17 troduce the record evidence before the trial court of said sec- 18 ond offense, and shall not be permitted to use his discretion in 19 charging said second offense nor in introducing evidence to 20 prove the same on the trial; *provided*, that boys under the age

21 of eighteen years, upon the second conviction, may at the dis-
22 cretion of the court, be sent to the reform school of the state.
23 Any person may obtain a state license to carry any such weapon
24 within any county in this state by publishing a notice in some
25 newspaper published in the county in which he resides, setting
26 forth his name, residence, and occupation, and that on a certain
27 day he will apply to the circuit court of his county for such
28 state license, and after the publication of such notice for at least
29 ten days before said application is made and at the time stated
30 in said notice upon application to said circuit court, it may
31 grant such person a license in the following manner, to-wit:

32 *First.* Such person must prove to said court that he is over
33 twenty-one years of age; that he is a person of good moral char-
34 acter, of temperate habits, and is not addicted to intoxication,
35 and has not been convicted of a felony nor of any other offense
36 involving the use on his part in an unlawful manner of any
37 such weapon.

38 *Second.* He shall file with said court an application stating
39 the purpose or purposes for which he desires to carry any such
40 weapon, and shall show in such application, and prove to the
41 court, good reason and cause for carrying such weapon. There-
42 upon, if such circuit court be satisfied from the proof that there
43 is good reason and cause for such person to carry such weapon,
44 and all of the other conditions of this act be complied with, said
45 circuit court may grant said license; but before said license
46 shall be effective such person shall pay to the sheriff, and the
47 court shall so certify in its order granting the license, the sum
48 of ten dollars, and shall also file a bond with the clerk of said
49 court in the penalty of three thousand five hundred dollars, with
50 good security, signed by a responsible person or persons, or by
51 some surety company authorized to do business in this state,
52 conditioned that such applicant will not carry such weapon ex-
53 cept in accordance with his said application and as authorized
54 by the court, and that he will pay all costs and damages ac-
55 cruing to any one by the accidental discharge or improper, neg-
56 ligent or illegal discharge or use of said pistol. Any such
57 license shall be good for one year, unless sooner revoked, and
58 be co-extensive with the state, and all licenses collected here-
59 under shall be accounted for to the auditor and paid over by the
60 sheriffs as other license taxes are collected and paid, and the
61 state tax commissioner shall prepare all suitable forms for

62 licenses and bonds and certificate showing that such license has
63 been granted and do anything else in the premises to protect the
64 state and to see to the enforcement of this act; *provided*, that
65 nothing herein shall prevent any person from carrying any such
66 weapon, in good faith and not for a felonious purpose, upon his
67 own premises, nor shall anything herein prevent a person from
68 carrying any such weapon (if it be a revolver or other pistol
69 unloaded) from the place of purchase to his home or place of
70 residence or a place of repair and back to his home or residence;
71 and, *provided, further*, that nothing herein shall prevent agents,
72 messengers and other employees of express companies doing
73 business as common carriers, whose duties require such agents,
74 messengers and other employees to have the care, custody or
75 protection of money, valuables and other property for such ex-
76 press companies, from carrying any such weapon while actually
77 engaged in such duties, or in doing anything reasonably inci-
78 dent to such duties; *provided*, such express company shall
79 execute a continuing bond in the penalty of thirty thousand
80 dollars, payable unto the state of West Virginia, and with se-
81 curity to be approved by the secretary of state of the state of
82 West Virginia, conditioned that said express company will pay
83 all damages accruing to anyone by the accidental discharge or
84 improper, negligent or illegal discharge or use of such weapon by
85 such agent, messenger or other employee while actually engaged
86 in such duties for such express company, or in doing anything
87 that is reasonably incident to such duties, but the amount which
88 may be recovered for breach of such condition shall not exceed
89 the sum of three thousand five hundred dollars in any one case,
90 and such bond shall be filed with and held by the said secretary
91 of state for the purpose aforesaid, but upon the trial of any
92 cause for the recovery of damages upon said bond, the burden of
93 proof shall be upon such express company to establish that such
94 agent, messenger or other employee was not actually employed
95 in such duties for such express company nor in doing anything
96 that was reasonably incident to such duties at the time such
97 damages were sustained; and, *provided, further*, that in cases
98 of riot, public danger and emergency, a justice of the peace
99 or other person issuing a warrant may authorize a special con-
100 stable and his posse to carry weapons for the purpose of exe-
101 cuting a process, and a sheriff in such cases may authorize a
102 deputy or posse to carry weapons, but the justice shall write on

103-104 his docket the causes and reasons for such authority and
105 the person so authorized, and index the same, and the sheriff or
106 other officer shall write out and file with the clerk of the county
107 court the reasons and causes for such authority and the person
108 so authorized, and the same shall always be open to public in-
109 spection, and such authority shall authorize such special con-
110 stable, deputies and posses to carry weapons in good faith only
111 for the specific purposes and times named in such authority,
112 and upon the trial of every indictment the jury shall inquire
113 into the good faith of the person attempting to defend any
114 such indictment under the authority granted by any such jus-
115 tice, sheriff or other officer, and any such persons so author-
116 ized shall be personally liable for the injury caused any one by
117 the negligent or unlawful use of any such weapon. It shall
118-119 be the duty of all ministerial officers, consisting of the jus-
120 tices of the peace, notaries public and other conservators of the
121 peace of this state, to report to the prosecuting attorney of the
122 county the names of all persons guilty of violating this section,
123 and any person wilfully failing so to do shall be guilty of a
124 misdemeanor and shall be fined not exceeding two hundred
125 dollars and shall, moreover, be liable to removal from office
126 for such wilful failure; *provided, further*, that nothing herein
127 contained shall be so construed as to prohibit regularly elected
128 sheriffs, their regularly appointed deputies who collect taxes in
129 each county and all regularly elected constables in their re-
130 spective counties and districts and all regularly appointed
131 police officers of their respective cities, towns or villages from
132 carrying such weapons as they are now authorized by law to
133 carry, who shall have given bond in the penalty of not less
134 than thirty-five hundred dollars conditioned for the faithful
135 performance of their respective duties, which said officers shall
136 be liable upon their said official bond for the damages done by
137 the unlawful or careless use of any such weapon whether such
138 bond is so conditioned or not.

All other acts or parts of acts inconsistent with this act are hereby repealed.

CHAPTER 96

(Senate Bill No. 3—By Mr. Suddarth)

AN ACT authorizing the board of education of Grafton independent school district to establish a retirement pension for Amanda Abbott.

[Passed April 14, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Retirement fund for Amanda Abbott, an aged school teacher.

Be it enacted by the Legislature of West Virginia:

That a retirement pension for an aged teacher be established by the board of education of the independent school district of Grafton.

Section 1. In recognition of her faithful service as a teacher 2 in the elementary schools of the district continuously for the 3 past forty-seven years, and she having passed the age of sev- 4 enty years, the board of education of Grafton independent 5 school district is hereby authorized to retire Amanda Abbott, 6 effective on or after the first day of July, one thousand nine 7 hundred and twenty-five, at a pension in such sum and on such 8 terms as the said board may from time to time fix and deter- 9 mine, the said pension to be paid out of the elementary teach- 10 ers' fund of the district.

CHAPTER 97

(Senate Bill No. 60—By Mr. Byrer)

AN ACT to validate a contract made by the board of education of the independent school district of Philippi, Barbour county, West Virginia, with E. M. Forman and B. H. Putnam, partners, trading as Forman and Putnam, bearing date June one, one thousand nine hundred and twenty-one, for the lease by the said board of education from said contractors of the plumbing system and the sewer system, complete, in a school building then being erected by said board of education in said district, and the said contract requiring the payment of five thousand, four hundred and eighty-seven dollars and ninety cents by the said board to the said Forman and Putnam and now assigned to Stuart and McMunn of Clarksburg, West Virginia; and also to validate another contract made by the said board of edu-

cation of said district with the said Forman and Putnam respecting the erection and completion of the said schoolhouse, authorized by a meeting of the said board on the fifteenth day of July, one thousand nine hundred and twenty-two, and providing for the finishing of said school building by leasing from the said Forman and Putnam certain material and equipment therefor installed in said building and for the payment therefor to said Forman and Putnam of a balance thereon in the sum of ten thousand two hundred and fifty-seven dollars and twenty-nine cents, and to authorize, empower and direct the said board of education to provide funds for the payment of and to pay said obligations, and to authorize, direct and require the said board of education to lay annual levies upon all the taxable property of the said school district to provide funds for such payments, and to fix the rate of such levy and to direct the manner of payment thereof.

WHEREAS, The board of education of the independent school district of Philippi, Barbour county, West Virginia, having been, by an act of the legislature of West Virginia, chapter twenty, acts of one thousand nine hundred and twenty-one, authorized to issue the bonds of said independent school district of Philippi, if ratified by vote, for the purpose of erecting and equipping a public and high school building in said independent district, issued its bonds for that purpose to the amount of ninety thousand dollars, and said board then had other available funds for that purpose in the sum of five thousand dollars, which said aggregate sum of ninety-five thousand dollars was inadequate to build and equip the building necessary to accommodate the schools of said independent school district; that after due advertisement for bids for a building sufficient to accommodate the said school district it was found that the lowest legitimate bid therefor was the bid of Forman and Putnam, contractors, at one hundred and seventeen thousand six hundred dollars; that thereupon the bids were so modified that certain parts of the said school building were to be left incomplete and a deduction from the said bid of one hundred and seventeen thousand six hundred dollars was made for the parts so left uncompleted, and the said board entered into a contract with the said Forman and Putnam for the erection of a part of the said building at ninety-five thousand dollars, all the funds then available, and in order to make the said building available for school purposes the said board of education entered into another agreement with the said Forman

and Putnam, bearing date on the first day of June, one thousand nine hundred and twenty-one, whereby it was provided that said Forman and Putnam, as owners, should lease to the said board of education, and install complete, in said school building, the plumbing and sewer systems, said owners to retain all right and title for said plumbing and sewer systems until all payments were made, but the lessee to have the use thereof, the said lessee, the said board of education, to pay as rental therefor the sum of five thousand four hundred and ninety-seven dollars and ninety cents, of which the sum of one thousand five hundred dollars was to be paid on November fifteen, one thousand nine hundred and twenty-two, and three thousand nine hundred and eighty-seven dollars and ninety cents thereof be paid December one, one thousand nine hundred and twenty-two, whereupon said leased property was to become the property of the said board of education, which said sum of five thousand four hundred and eighty-seven dollars and ninety cents remains unpaid, and the indebtedness represented thereby was assigned by the said Forman and Putnam to Stuart and McMunn of Clarksburg, West Virginia, who are now the owners thereof; that said board of education at its meeting on the fifteenth day of July, one thousand nine hundred and twenty-two, authorized the said contractors, Forman and Putnam, to complete the remainder of the said school building, then incomplete, and being the auditorium, gymnasium and certain other parts of the said building, to make it available for school purposes, and the said Forman and Putnam were to receive therefor the balance of their said bid, being the sum of seventeen thousand six hundred dollars; and were to be paid thereon the funds that had been made available by levies for that year and the material and equipment so used to be and remain a property of the said Forman and Putnam and be leased to the said board for its use for school purposes and an annual rental to be paid therefor until the residue of the said contract price had been paid, at which time the title to the said property so leased was to pass to and become the property of the said board of education, and under the said arrangement the said contractors completed the unfinished parts of the said building and installed therein a heating system, seats and other equipment, and out of the funds available for that purpose there was paid on the said indebtedness for the completion of said building and for certain additional work done at the instance of said board the sum of seven thousand seven hundred and

seventy-nine dollars and sixty-eight cents, leaving a balance due to the said Forman and Putnam thereon of ten thousand two hundred and fifty-seven dollars and twenty-nine cents, which has not been paid and is due and owing from the said board of education to the said Forman and Putnam; and the aforesaid acts of the said board of education in respect to the erection and completion of the said school building and the contracts made and entered into in respect thereto, and the aforesaid indebtedness of five thousand four hundred and eighty-seven dollars and ninety cents now due to Stuart and McMunn as assignees of said Forman and Putnam, as aforesaid, and the said balance due to the said Forman and Putnam of ten thousand two hundred and fifty-seven dollars and twenty-nine cents, are, and each of the same be hereby validated and the aforesaid debts made valid and binding obligations on the said board of education in favor of the said Stuart and McMunn and the said Forman and Putnam, respectively, as herein set out; therefore,

[Passed March 17, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Provide levy to raise funds to pay indebtedness for buildings erected.

Be it enacted by the Legislature of West Virginia:

That certain contracts made by the board of education of the independent school district of Philippi be validated, and said board be authorized to lay such levies as are necessary in payment thereof, as hereinafter provided.

Section 1. The said board of education shall provide by levy
2 sufficient funds to pay off the said indebtedness mentioned herein
3 in not exceeding three annual payments, and for that purpose
4 the said board of education may use any available funds from
5 its general building levies, and, if necessary, to provide addi-
6 tional funds over and above the general levies, to so pay the
7 said indebtedness in three years, the said board of education
8 shall, in laying its annual levy, in addition to all other levies
9 now provided by law, lay a special levy of not exceeding twenty-
10 two cents on each one hundred dollars valuation of all the tax-
11 able property within the said independent school district, and
12 such special levy shall be annually fixed at such rate, not ex-
13 ceeding twenty-two cents on the one hundred dollars valuation
14 of taxable property in said school district, and used with the
15 general levies available for that purpose, for the payment of
16 the said indebtedness until the same is paid in full within three
17 years, and such indebtedness shall be paid *pro rata* out of the
18 said funds so provided, to the respective parties entitled thereto.

CHAPTER 98

(House Committee Substitute for Senate Bill No. 76—By Mr. Willis)

An Act to amend chapter eighty-five of the acts of the legislature of one thousand eight hundred and ninety-seven, relating to the independent school district of Morgantown, by amending and re-enacting sections one, three, ten, fifteen and sixteen thereof and by adding thereto sections one-*a* and twenty-four-*a*.

[Passed April 21, 1925; in effect from passage. Approved by the Governor.]

Sec.	Sec.
1. Boundaries of independent district.	10. Gratuitous admission of children in district to school; reasonable tuition for pupils transferred from other districts.
1- <i>a</i> . Additional territory of Morgan district.	15. Make, publish and certify estimates of receipts and expenditures, and proposed rates of levy; to lay levy.
24- <i>a</i> . Special election to annex territory in Morgan district; form of ballot.	16. Limit of levy.
2. Further amending chapter eighty-five.	
3. Annual election of school commis-	

Be it enacted by the Legislature of West Virginia:

That chapter eighty-five of the acts of the legislature of one thousand eight hundred and ninety-seven, creating the Independent School District of Morgantown, be amended by amending and re-enacting section one thereof, and by adding thereto section one-*a* after section one thereof, and section twenty-four-*a* after section twenty-four thereof, as follows:

Section 1. The town of Morgantown and parts of school districts contained within the following boundaries, shall constitute one independent school district, to be known as the Morgantown School District, to-wit: Beginning at Target Rock, a large rock in the Monongahela river below Morgantown, said Target Rock being nearest right bank of said river; thence north fifty-six degrees, east two hundred three and eight-tenths rods to a locust on the northeast side of the Collins Ferry road opposite the entrance to a lane leading to O. H. Dille's farm house; thence south sixty-one degrees, fifteen minutes east, two hundred fifty-three and seven-tenths rods to a post on the southeast side of the Stewartstown Road opposite the intersection of a lane leading to the Hoffman farm house and the old and new Stewartstown road; thence south fifty-eight degrees, two minutes east two hundred one and five-tenths rods to a stone on the southeast side of Ice's Ferry Pike, at its intersection with the old Robinson road; thence south eleven degrees, nine minutes, east two hundred nineteen and five-tenths rods to a stone on the southwest side of the Decker's Creek road, op-

20 posite its intersection with the Sturgiss road; thence south
21 thirty-four degrees, fifteen minutes, west two hundred thirty-one
22 five-tenths rods to a large stone on top of hill on land of George
23 Harner; thence south fifty-eight degrees, twenty-five minutes
24 west two hundred twenty-seven and five-tenths rods to a stone
25 on the northeast side of the Kingwood Pike, at its intersection
26 with a lane leading to the William Wells farm house; thence
27 south sixty-seven degrees, fifty-three minutes, west three hund-
28 red forty-four rods to a stone at the intersection of the old
29 Evansville Pike, with the Morgantown and Fairmont Road;
30 thence north eighty-eight degrees, twenty-five minutes, west
31 seventeen and eighty-eight hundredths rods to a syc-
32 more on the right bank of the Monongahela River; thence with
33 the shore line of said river and down the same one hundred
34 ninety rods to a white walnut; thence north fifty-two degrees,
35 forty minutes, west thirty and six-tenths rods crossing afore-
36 said river to a sycamore on the left bank, near upper end of
37 shelving rocks; thence the same course north fifty-two degrees,
38 forty minutes west continued thirty-seven and seventy-five hun-
39 dredths rods to a white oak on top of hill, on the Lowe land;
40 thence north seven degrees, ten minutes, east one hundred
41 eighty-nine and fifty-eight hundredths rods to a point at the
42 south side of Lockview Avenue; thence along south side of Lock-
43 view Avenue sixteen and ninety-six hundredths rods to corner
44 of Lockview Avenue and the Westover Reservoir site; thence
45 with two lines of same north nine degrees, thirty minutes, east
46 twenty-five and nine hundredths rods to an iron pin; thence
47 north eight degrees thirty minutes, east eighteen and forty-nine
48 hundredths rods to a corner of West View Addition to West-
49 over; thence with two lines of same north eighty-three degrees
50 west forty-nine and sixty-nine hundredths rods to a post; thence
51 north twenty-five degrees east twenty-three and twenty-one
52 hundredths rods to corner of West Morgantown First Addition
53 to Westover and along same north twenty-five degrees east
54 thirty-eight and ninety hundredths rods to south side of Fair-
55 mont Pike; thence with said pike in an easterly direction
56 about twenty-seven and twenty-seven hundredths rods to point
57 on the west side of Garfield avenue in said West Morgantown
58 First Addition at the present corporation line of the town of
59 Westover; thence north one degree, three minutes west one hun-
60 dred seventy-seven rods to a sugar on the left bank of the

61 Monongahela River, near the mouth of a small run; and thence
62 north sixty-eight degrees, fifty-two minutes east, eighty-one
63 and five-tenths rods crossing aforesaid river to Target rock, the
64 place of beginning.

Sec. 1-a. That all the territory of the magisterial district
2 of Morgan, in Monongalia county, not already included in the
3 school district of Morgantown, as created and founded by the
4 preceding section shall be annexed to and constitute part of
5 the said independent school district, with all the rights and
6 privileges and subject to the obligations thereof, when and
7 after the result of the election herein provided for is ascertained
8 and declared in favor thereof.

Sec. 24-a. The foregoing section 1-a and the provisions of
2 said chapter eighty-five of the acts of one thousand eight hun-
3 dred and ninety-seven and acts amendatory thereof, shall not ap-
4 ply to the said territory of said Morgan district proposed to be
5 annexed, until the qualified voters residing therein, by a majori-
6 ty of the votes cast at a special election to be held therein, within
7 two months after this act takes effect, declare in favor thereof.
8 Such election shall be held and the result thereof ascertained and
9 declared by the board of education of said Morgan district at
10 the usual voting places in the said territory proposed to be an-
11 nexed in accordance with the laws of this state relating to elec-
12 tions in so far as applicable. A proclamation shall be issued by
13 order of said board, setting forth the time, purpose, voting
14 places, election officers and form of ballot for such election, which
15 shall be published once a week for two successive weeks next
16 prior to the date of such election, in two newspapers of opposite
17 politics published in said Morgan district. The ballot for such
18 election shall be printed upon plain white paper in the following
19 form:

20

SCHOOL ELECTION

21 Shall the territory of Morgan district not already included in
22 the Morgantown independent school district, be annexed to and
23 become part of said independent district?

24 For annexation.

25 Against annexation.

26 If the majority of the votes cast upon said question in said
27 territory be in favor thereof, then the territory described in

28 section one-a hereof shall thereafter be included in and constitute
29 part of the independent school district of Morgantown ; but if
30 the majority of the votes cast upon said question be against the
31 same, then the said territory proposed to be annexed shall re-
32 main as it now is.

Sec. 2. That said chapter eighty-five of said acts be further
2 amended by amending and re-enacting sections three, ten, fif-
3 teen and sixteen thereof as follows :

Sec. 3. Annual elections for school commissioners of said
2 district shall be held at the usual voting places throughout the
3 said school district at the time provided by law for the annual
4 municipal election of the city of Morgantown, for which pur-
5 pose the common council of said city shall designate the elec-
6 tion officers throughout said school district and ascertain and
7 declare the result of election.

Sec. 10. Admission to the schools of said district shall be
2 gratuitous to all children and wards of actual residents within
3 the district, between the ages of six and twenty-one years. Pupils
4 residing in other school districts of said county may be per-
5 mitted to attend the schools of said district upon payment of
6 reasonable tuition fees to be prescribed by the board of educa-
7 tion, not exceeding ten dollars per month for the graded
8 schools and twenty dollars per month for the high school, which
9 fees it shall be lawful for the boards of education of school dis-
10 tricts transferring such pupils to pay out of the teachers funds
11 of their respective districts upon presentation of proper certifi-
12 cates therefor.

Sec. 15. At its session on the second Tuesday in August in
2 each year the board of education shall make, certify and publish
3 a statement of estimated receipts and expenditures and proposed
4 rates of levy for said district, and at its session on the fourth
5 Tuesday in August in each year it shall, if necessary, correct
6 such statement and proposed levies and shall thereupon levy as
7 many cents on each one hundred dollars assessed valuation of
8 the taxable property in the said district, according to the last
9 assessment thereof, as will produce the amounts necessary for
10 school purposes which levies shall be made, extended and col-
11 lected in like manner and effect as other levies.

Sec. 16. The levies authorized by the preceding section shall
2 not exceed the respective maximum rates of levies for the pur-

3 poses now or hereafter authorized by the laws of this state relat-
4 ing to levies by boards of education for school purposes.

This act shall take effect from passage.

CHAPTER 99

(Senate Bill No. 138—By Mr. Johnson)

AN ACT to amend and re-enact section nine of chapter seventy-four of the acts of the West Virginia Legislature of one thousand nine hundred and eleven, relating to Charleston independent school district, as amended by the acts of one thousand nine hundred and fifteen and of one thousand nine hundred and seventeen and of one thousand nine hundred and twenty-three, relating to teachers' institutes and courses of professional teachers' training.

[Passed April 14, 1925; in effect from passage. Approved by the Governor.]

Sec.

9. Board of education to appoint teachers; fix salaries; must have certificate; superintendent need not have certificate; board of education to establish city institute for teachers; or lectures; fix time

and place; power to order attendance; obligatory upon teachers to attend district institutes in lieu of county institute; expense of institute; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter seventy-four of the acts of the West Virginia Legislature of one thousand nine hundred and eleven, as amended by chapter one hundred and ten of the acts of one thousand nine hundred and fifteen, by chapter seventy-three of the acts of one thousand nine hundred and seventeen, and chapter ninety-nine of the acts of one thousand nine hundred and twenty-three, relating to Charleston independent school district and to teachers' institutes and professional training, be, and the same is hereby amended and re-enacted to read as follows:

Section 9. The board of education shall appoint all teachers
2 for the public schools within the said district, and shall fix their
3 salaries; but no person shall be employed to teach in said schools
4 who shall not first have received such a certificate as said board
5 may require to teach a school of the grade for which the appoint-
6 ment was made; except that the superintendent of schools shall
7 not be required to obtain any certificate. Said board of educa-
8 tion shall have power to establish a city institute for the teach-
9 ers of said independent school district, or course of educational

10 lectures, to be held at such time and place as the board may des-
 11 ignate. And said board shall have power to order that attend-
 12 ance upon these institutes or course of educational lectures, or
 13 any of them, shall be obligatory upon all teachers employed in
 14 the district and be required in lieu of attendance upon county
 15 teachers' institute, and said board shall have power to appro-
 16 priate and pay out of the elementary school fund, or other
 17 available funds the proper costs and expenses of holding such
 18 institute, including the reasonable compensation of lecturers
 19 and other persons whom it may employ for such purpose.
 20 All acts and parts of acts inconsistent herewith are hereby
 21 repealed.

CHAPTER 100

(Senate Bill No. 139—By Mr. Johnson)

AN ACT to authorize and empower the board of education of
 Cabin Creek district in the county of Kanawha to pay Theodore
 Keeney for a school house heretofore erected by him for
 said district.

[Passed March 30, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Authorization for board of educa-
 tion Cabin Creek District to pay

for school building; payment to
 be made notwithstanding any law
 to the contrary.

Be it enacted by the Legislature of West Virginia:

That the board of education of Cabin Creek district of Kanawha
 county be authorized and empowered to make disbursement of
 public funds for a special purpose.

Section 1. That the board of education of the magisterial
 2 district of Cabin Creek in the county of Kanawha, shall have
 3 full power and authority to issue an order or orders to and
 4 to pay to Theodore Keeney such sum of money as said board
 5 shall ascertain to be the reasonable value of a school building
 6 claimed to have been erected by the said Keeney at Ronda in
 7 said district and used for school purposes by the said board of
 8 education.

9 The said board shall have power to pay such sum as shall
 10 be so found by it to be due, notwithstanding any provision of
 11 any other law of the state of West Virginia, and to the extent
 12 necessary to give full effect to this act, any conflicting provision
 13 of any other law of the state is hereby repealed.

CHAPTER 101

(Senate Bill No. 148—By Mr. Kidd)

AN ACT to authorize the board of education of Elk district, Kanawha county, to make a contract for an addition to the present high school building at Elkview, and to provide funds to pay for the same.

[Passed April 14, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Authorization of board of education Elk district to make contract; payment for building; levy.

Be it enacted by the Legislature of West Virginia:

That the board of education of Elk district, Kanawha county be authorized to make certain contracts relating to the improvement to a high school building, and to make levies for the payment of same.

Section 1. That the board of education of Elk district, Kanawha county, be, and is hereby authorized and empowered at any time hereafter, to make a contract for the construction of an addition to the present high school building at Elkview, to cost not in excess of fifty thousand dollars, all or part of the cost of construction under said contract to be paid out of the proceeds of the district building fund levy for the school year beginning July first, one thousand nine hundred and twenty-five, and the funds arising from the special building fund levy hereinafter provided for, and any building funds now in the treasury of said board.

And said board is further authorized to lay a special building fund levy for the school year of one thousand nine hundred twenty-five, of not to exceed fifteen cents on each one hundred dollars valuation of real estate and personal property in said district, and to use the proceeds thereof for the purpose of paying the cost of the addition to the high school authorized by this act.

CHAPTER 102

(Senate Bill No. 239—By Mr. White)

AN ACT providing for the creation, operation and maintenance of the Mingo independent school district in Mingo county.

[Passed April 20, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.	Sec.
1. Vote on creating independent district.	grounds, fixtures, apparatus, etc., for necessary school purposes; repairs; fuel, light, etc.
2. Boundaries.	16. Courses of study to be taught; control of schools; textbooks and stationery.
3. Board of education.	17. Superintendent, principals, teachers; appointment of; subject to rules and regulation of board of education; removal for cause; janitors, compensation; removal.
4. State superintendent of schools to appoint first board of education; term of office.	18. Superintendent, powers and duties prescribed by board; removal from office for cause; vacancy; make recommendations and suggestions relative to principal and teachers; board may not appoint persons recommended; may require additional recommendations.
5. Election of board of education; term of office.	19. Duties of superintendent; salary; admitting pupils to high school; non-resident pupils.
6. Elections held, returned, and results declared; duties of board of education and secretary.	20. Penalties for defacing or injuring property; prosecutions therefor.
7. Candidates nominated; political party nominations.	21. Repeat inconsistent acts.
8. Certification of nominations; nominations by petition; filed with secretary.	22. This act to be approved by voters before effective; call election for the same; notice to be published; holding election; qualified voters; form of ballot; majority to create new district.
9. Vacancies on board of education; how filled; of same political party; term.	
10. Board of education to be corporation; succeed former board; property vested.	
11. First meeting of board; organization; vote.	
12. Salaries of members of the board, and secretary.	
13. Regular and special meetings; quorum.	
14. Lay annual levies; make estimates for additional levies.	
15. Purchase or lease buildings,	

Be it enacted by the Legislature of West Virginia:

That the Mingo independent school district, in Mingo county, be created, and providing for the operation and maintenance and defining its purpose, as follows:

Section 1. That in the event a majority of the votes shall be cast in the affirmative at an election which shall be held; as hereinafter provided, the territory included within the boundaries described in section two, hereof shall constitute, and is hereby created and made an independent school district, which shall be known as the "Mingo Independent School District."

Sec. 2. The territorial limits of the Mingo Independent District, in the county of Mingo, West Virginia, shall be as follows: Beginning at the edge of Tug River, about five hundred feet, more or less, above the mouth of Upper Burning Creek, on a stake, a corner between the lands now owned by John F. Stepp and H. S. Parsley; thence with the line of said John F. Stepp up, over and down the spur to where the line of said Stepp crosses the bed of Upper Burning Creek; thence up the Creek with its bed thereof, to the mouth of a branch known as the Laurel Fork of said Creek, where stood Martin's saw mill; thence up the hill in a northerly direction, a straight line to

12 the top of the dividing ridge between Upper and Lower Burn-
13 ing Creek, at the head of Middle Burning Creek to two chest-
14 nut oaks, a corner of the lands of Jacob Baach, deceased, es-
15 tate, on top of the ridge at the head of Middle Burning Creek ;
16 thence with the line of said Jacob Baach through the head of
17 Lower Burning Creek to two chestnut oaks on a knoll between
18 the Vinson Branch and Lower Burning Creek, a corner to the
19 said Baach's estate ; thence with the dividing ridge between the
20 waters of the branches of Marrowbone Creek and the smaller
21 branches of Tug River, to the Wayne county line ; thence with
22 the Wayne county line, to Tug River ; and up Tug River to the
23 point of beginning, near the mouth of Upper Burning Creek,
24 leaving all the lands of the said Jacob Baach's estate in what is
25 now Kermit district.

Sec. 3. There shall be a board of education of the said
2 district to consist of three commissioners, who shall be chosen
3 as hereinafter provided, and who shall be citizens entitled to
4 vote at elections to be held in the said Mingo independent school
5 district at the time they are elected.

Sec. 4. On or before the first day of July, one thousand
2 nine hundred and twenty-five, or as soon thereafter as prac-
3 ticable, the state superintendent of free schools of West Vir-
4 ginia shall appoint three commissioners or members of the
5-6 board of education of said district, not more than two of
7 whom shall be members of the same political party, and all
8 of whom shall be otherwise qualified as herein provided, whose
9 term of office shall begin on the first day of July, one thousand
10 nine hundred and twenty-five, or with the date of their ap-
11 pointment, if appointed after that date, and who shall hold
12 their respective offices until their successors are elected and
13 qualified, as hereinafter provided.

Sec. 5. On the First Tuesday in May, one thousand nine
2 hundred and twenty-six, and on the first Tuesday in May in
3 each second year thereafter, an election shall be held in the
4 said district to choose commissioners of the board of educa-
5 tion of the district. At the first election so to be held, on
6 the first Tuesday in May, one thousand nine hundred and
7 twenty-six, three commissioners shall be elected ; one of them
8 for a term of two years, one for a term of four years, and
9 one for a term of six years, and the ballots to be used at said
10 election shall designate the term for which each of the persons

11 voted for is a candidate. Thereafter, at each of the elections
12 in said district provided for in this section, one commissioner
13 of the board of education shall be elected, and each shall be
14 elected for the full term of six years. The term of office of
15 commissioners of the board of education shall begin on the
16 first day of July, immediately following the election of such
17 commissioners, and each shall hold for the full term and until
18 his successor has been elected and qualified; *provided*, that
19 at no time shall more than two of the commissioners of the
20 board be members of the same political party, it being the
21 intention of this act to make and keep the said board of educa-
22 tion bi-partisan.

Sec. 6. All elections of whatsoever kind held under this
2 act shall be conducted, returned and the results thereof ascer-
3 tained and declared under the authority of the board of educa-
4 tion, in a manner prescribed by the laws of the state of West
5 Virginia relating to elections insofar as they are not in con-
6 flict with or inconsistent with the provisions of this act; the
7 board of education discharging the duties imposed by the
8 election laws of the county court, and the secretary of the
9 board of education discharging the duties imposed by the
10 general election law upon the circuit clerk and county clerk.

Sec. 7. Candidates to be voted for at any election for mem-
2 bers or commissioners of the board of education may be nomi-
3 nated by convention, primary or petition, in the manner and
4 under the provisions now or hereafter prescribed by the state
5 laws relating thereto; *provided, however*, that no political
6 party shall nominate more than the number to which it is
7 entitled.

Sec. 8. Every person so nominated for the office of mem-
2 ber or commissioner of the board of education shall, within
3 five days after his nomination has been certified by the politi-
4 cal party making the nomination, or by the petition making
5 such nomination, make, under oath, and file with the secre-
6 tary of said board of education a statement as to the political
7 party to which he claims allegiance, and if nominated by more
8 than one political party he shall state to which of them he
9 belongs. If such person fails to make such oath and file the
10 same as herein provided, his name shall not be placed on the
11 ballot to be voted for at the approaching election. The cer-

12 tificate of nomination or petition shall be filed with the secre-
13 tary of the board of education at least fifteen days before the
14 election, at which the candidate is to be voted for.

Sec. 9. If a vacancy occurs on the board of education, it
2 shall be filled by the remaining members of the board by ap-
3 pointment thereto of some eligible person from the independ-
4 ent district, and the person so appointed shall be of the same
5 political party as the member whose vacancy is being filled,
6 and shall hold office for the unexpired term and until his suc-
7 cessor is elected and qualified.

Sec. 10. The board of education of said district shall be
2 a corporation by the name of "The Board of Education of
3 Mingo Independent District," and as such may sue and be
4 sued, plead and be impleaded, contract and be contracted
5 with; may purchase and hold such real estate and personal
6 property as it may deem necessary for the purpose of educa-
7 tion in said district, and may receive and hold any gift, grant
8 or donation, devise and bequest for the benefit of the schools
9 in said district, and shall succeed and be substituted to the
10 rights of the former board of education of the school district
11 of Kermit, lately called Warfield, in the county of Mingo,
12 insofar as it relates to or in any way affects the schools or
13 school property located within the boundaries of said in-
14 dependent district, and may prosecute and may maintain all
15 the suits and proceedings now pending or which may have
16 been brought and prosecuted in the name of said former board
17 of education of the district of Kermit, lately called War-
18 field, for the recovery of any money or property, or damage to
19 any property located within the said independent district,
20 due to or vested in said former board of education, and shall
21 also be liable in its corporate capacity for all claims or de-
22 mands legally existing against the board of education of which
23 it is successor insofar as the same relates to the school or
24 school property located within the boundaries of the said
25 independent district. The title to all school property, both
26 real and personal, located within the boundaries of said in-
27 dependent district, is hereby vested in said board of educa-
28 tion in said independent district, and its successors.

Sec. 11. Annually, at the first meeting of the said board
2 of education, which is hereby required to be held on the first

3 Monday in July of each year, or as soon thereafter as prac-
4 ticable, the said board shall organize by electing one of its
5 members president and by electing a secretary, who shall
6 perform the duties required by the general school law of
7 their respective offices and such additional duties as are herein
8 required or as may be prescribed by the said board of educa-
9 tion. Each member of the said board of education shall have
10 one vote, and only one vote, upon any question or motion
11 before said board.

Sec. 12. The salary of commissioners or members of said
2 board of education shall be twenty-five dollars per year, and
3 the salary of the secretary of said board of education shall be
4 fixed at the time of his appointment of election as secretary;
5 *provided*, the said salary shall not exceed the sum of one hun-
6 dred dollars per year. *Provided*, that each member of said
6-a board of education shall have deducted from his salary, as
7 herein provided, the sum of two dollars for each regular meet-
8 ing of said board that he fails to attend. The salaries shall
9 be payable out of the building fund of said district.

Sec. 13. The board of education of said district shall hold
2 regular or stated meetings at such time and place as the board
3 may appoint, and special meetings of the board may be called by
4 the president, or at the request of any two members by the secre-
5 tary. No business may be transacted at a special meeting ex-
6 cept that mentioned in the call for such special meeting, which
7 call shall be in writing and shall be recorded by the secretary
8 in the record of the proceedings of the meeting, and shall be
9 given at least one day before the meeting is held, to each mem-
10 ber of the board of education. Two members of the board of
11 education shall constitute a quorum for the transaction of busi-
12 ness at any meeting of the board; *provided*, that all members
13 shall have had notice of the time, place and purpose of any spe-
14 cial meeting called as herein provided for.

Sec. 14. It shall be the duty of the board of education of
2 this district, annually, at the same time and in the same manner
3 now provided, or as may hereafter be provided by the general
4 school laws of this state, for the ascertaining and making of es-
5 timates and the fixing and laying of school levies by the boards
6 of education of the various school districts within the state for
7 the support of the free schools therein, to ascertain and to make
8 such estimates of the amounts necessary for the support of the

9 schools within the said independent district, to determine, fix
10 and lay such levies on the property located within said independ-
11 ent district for the support of the schools therein. It shall be
12 the duty of the board of education of the said independent dis-
13 trict annually, at such meeting to levy as many cents on each
14 one hundred dollars of valuation of the taxable property of
15 the district, according to the last assessment thereof, as will
16 produce the amount shown by the estimate of said board to be
17 necessary to be levied for the building fund purposes, and levy
18 in like manner the amount necessary, after deducting the sum
19 receivable from the general school fund of the state for teachers'
20 purposes, to continue the schools in session in said independent
21 district for a term of nine months in the graded or elementary
22 schools, and for a term of nine months in the junior and senior
23 high schools; and to levy and provide sufficient funds for all
24 purposes to keep said schools in session for the term of nine
25 months, as herein provided; and the board of education of said
26 independent district is hereby authorized and empowered to
27 lay a levy in addition to the levies authorized by the general
28 school law of the state, if the same shall be required, sufficient
29 for all purposes to conduct the schools of the independent dis-
30 trict for the term fixed.

Sec. 15. It shall be the duty of the board of education to
2 provide by purchase, leasing, building or otherwise, all necessary
3 school buildings, grounds, furniture, fixtures, apparatus and
4 appliances, and all other necessary supplies which it deems neces-
5 sary to maintain the schools, and for the education of the chil-
6 dren of school age within said independent district, and to keep
7 the school property in said district in good repair, and supply
8 the school buildings therein with proper fuel or heat and light
9 and other things necessary for the comfort and convenience of
10 the school and to pay the cost of the same out of the building
11 fund of the district.

Sec. 16. It shall be the duty of the board of education to
2 establish and cause to be taught in said independent school dis-
3 trict, including any high school or high schools as it may deem
4 necessary for the proper education of all children of school age
5 residing therein. Said board of education shall have exclusive
6 control of all the schools within said district; shall, with the ap-
7 proval of the superintendent of said schools, prescribe the sub-
8 jects to be taught in the high school, graded or elementary

9 schools of the district; shall have power to make all necessary
10 rules and regulations for the government of said schools, for
11 the admission of pupils therein, and for the exclusion of any
12 and all pupils whose attendance would be dangerous to the
13 health or detrimental to the morals of said schools. The said
14 board may, with the superintendent of said schools, prescribe
15 and adopt a uniform line of textbooks for the use of the schools
16 of said district; may furnish such books and stationery and
17 other supplies to make the system efficient, and pay for the
18 same out of the building fund of said district.

Sec. 17. The board of education shall appoint, as herein-
2 after provided, a superintendent, principals and teachers and
3 provide for substitute teachers, when necessary, for all the pub-
4 lic schools within the said district, and fix their compensation.
5 The teachers and principals shall be subject, in all respects, to
6 the rules and regulations adopted by the board of education
7 and promulgated by the superintendent of schools of said dis-
8 trict, they may be removed by said board of education for in-
9 competency, neglect of duty or gross immorality, or whenever,
10 from any cause, it shall appear to said board that their re-
11 moval is for the best interest of the schools of the district. The
12 board shall also employ janitors and custodians of the school
13 buildings and fix their compensation, and may remove such
14 janitors whenever it shall appear to said board from any cause
15 their removal is to the best interest of the schools of the dis-
16 trict.

Sec. 18. The board shall employ, as aforesaid, a superin-
2 tendent of schools of the district, who, in addition to the duties
3 prescribed by this act shall have such powers and perform such
4 duties as the board of education shall elect. The superintendent
5 of schools may be removed from office at any time for incom-
6 petency, neglect of duty, immorality or for any violation of the
7 law; but he shall not be removed except on charges preferred
8 in writing by a school commissioner, and a copy of such charges
9 and of notice of time and place set for hearing shall be delivered
10 to him at least ten days before the time set for such hearing. He
11 shall be allowed to present any evidence he may desire and to
12 be heard in his own defense. If a vacancy occur in the office
13 of superintendent of schools it shall be filled by appointment by
14 the board of education. It shall be the duty of the superin-

15 tendent of schools, annually, on or before the first meeting in
16 July, at a meeting of the board of education, or as soon there-
17 after as circumstances will allow, to recommend and suggest to
18 the board of education a sufficient number of teachers and
19 principals to fill the schools of the district.

20 The board may refuse to appoint any or all the persons so
21 recommended and may require the superintendent of schools to
22 recommend others.

Sec. 19. It shall be the duty of the superintendent of schools,
2 with the approval of the board of education, to prescribe the
3 branches to be taught in all the schools, including the high
4 school of the district, to carry out the provisions of the course
5 of study prescribed by the said board of education and to sup-
6 plement the high school course thus prescribed and adopt it
7 to the high school of the district; prescribe regulations for the
8 examination for graduation of pupils; prescribe conditions for
9 the admission of pupils to the high school; to have prepared
10 questions for the examination of such pupils; to issue certifi-
11 cates to such pupils as are deemed worthy to be admitted to
12 the high school; to keep a register of all certificates so issued;
13 to select courses of reading to be pursued by the teachers of
14 the district; to select books for the school libraries; and to
15-16 acquaint himself with the best methods in the schools of other
17 districts.

18 The salary of the superintendent of schools shall be fixed
19 by the board of education and paid out of the teachers' fund.

20 No pupil shall be entitled to enter the high school of the
21 district until the superintendent of schools shall have satisfied
22 himself that the pupil has made due proficiency in the grades
23 of the grammar schools. Pupils who are non-residents of the
24 district may be allowed to attend the schools of the independent
25 district upon payment of such tuition as is prescribed by the
26 general law of the state, or as the board of education may pre-
27 scribe except pupils from Kermit District who shall be ad-
28 mitted without pay.

Sec. 20. If any person shall mar, deface or injure any
2 schoolhouse, outbuilding, fence, furniture or other property of
3 the district, the person so offending shall be liable to prosecu-
4 tion before any justice of the peace of the district, and upon
5 conviction, shall be subject to a fine of not less than five dol-
6 lars nor more than one hundred dollars, and the cost of prose-

7 cution, and the person convicted shall also be liable for the full
8 amount of the damage.

9 If the injury be done by a minor, the parent or guardian of
10 the minor, shall be liable for the damages as aforesaid. It shall
11 be the duty of the board of education to ascertain, if possible,
12 by whom such offense was committed, and when satisfied there-
13 of, to cause the party or parties to be arrested, tried for the
14 offense, in the name of, and on behalf of, the board of education
15 of the district, and all fines and damages collected by virtue of
16 this section shall be paid into the building fund of the said dis-
17 trict.

Sec. 21. All the provisions of the general school law of the
2 state, and all acts heretofore existing which are in any manner
3 inconsistent with the provisions of this act, shall be void within
4 the said independent district; otherwise the said general school
5 law shall remain in full force and effect in the said independent
6 district, as elsewhere in the state.

Sec. 22. This act shall not be effective unless and until the
2 same shall first be submitted to the voters, in what is now
3 Kermit, lately Warfield, district of Mingo county, West Vir-
4 ginia, at a special election to be called and held for the pur-
5 pose, and shall be approved and adopted by a majority of
6 the votes cast at said election. Said election shall be called by
7 John L. Evans, G. C. Richmond and John M. Farley, who, at
8 the general elections held in said Kermit, then Warfield, district
9 in the years one thousand nine hundred and twenty, one thou-
10 sand nine hundred and twenty-two and one thousand nine
11 hundred and twenty-four were duly and regularly elected by
12 the voters of said district as and for the board of education
13 thereof, and two of whom belong to one of the major political
14 parties and the other of whom belongs to the other of the
15 major political parties; and the said election shall be called
16 and held within thirty days from the date this act takes
17 effect, and notice of the said election shall be published at
18 least two weeks prior thereto in a newspaper published in
19 Mingo county, and by posting a notice thereof on the front
20 door of each of the school houses in said territory comprising
21 the proposed independent district. Said election shall be held
22 and conducted in all respects as general elections are now
23 held and conducted under statutes of this state; the election
24 officers to conduct the same shall be appointed by the said

25 persons above named. Two of the commissioners of election
26 shall belong to one of the major political parties and the other of
27 said commissioners to the other major political party, and
28 one of the poll clerks to belong to each of the said two major
29 political parties.

30 Only such persons shall vote in the said election as would
31 be entitled to vote in said Kermit, lately Warfield, school
32 district at a general election, and the voting places for such
33 election shall be all the voting precincts in said Kermit, lately
34 Warfield, district. The voters resident in what, if this act
35 is adopted, will be the independent district, to vote at the
36 voting precinct or precincts within said independent district
37 and the voters resident without said independent district,
38 but in said Kermit, lately Warfield, school district, shall vote
39 in the precincts at which they are entitled to vote at general
40 elections. Commissioners and poll clerks for each of the
41 voting precincts shall be appointed as hereinbefore provided,
42 and said election officers must be persons entitled to vote at
43 said election.

44 The ballot to be voted at said election shall be printed upon
45 plain white paper, and in the following form:

46 MINGO INDEPENDENT SCHOOL DISTRICT ELECTION.

47 (Indicate how you desire to vote by placing an "X" or
48 cross in the square.)

49 For creation of new district.

50 Against creation of new district.

51 If a majority of the votes cast at such election shall be for
52 creation of the district, then this act shall forthwith be effective
53 and the said independent district shall be created. If a ma-
54 jority of the votes cast shall be against the creation of the new
55 district, then this act shall be null and void.

CHAPTER 103

(Senate Bill No. 406—By Mr. Darnall)

AN ACT to amend chapter thirty of the acts of one thousand nine hundred and twenty-one, of the legislature of West Virginia, extending the boundary lines of the Huntington independent school district.

[Passed March 19, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Boundary lines.
2. Call election to ratify or reject act; publish notice of election; places of voting; who may vote; election officers; opening and closing the polls, time of; certifying result of election; form of certificate; printing ballots; instructions for voting.
3. Registration of voters; pay of reg-

Sec.

- istrars and election officers.
4. Canvass returns and declare result of election; funds, buildings, grounds and other property transferred, including bonded indebtedness; may issue and sell new bonds, or any unsold bonds.
5. Powers and duties of the assessor and sheriffs of Cabell and Wayne counties.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the acts of the legislature of one thousand nine hundred and twenty-one, entitled: "An act to amend and re-enact chapter sixteen of the acts of one thousand nine hundred and nine of the legislature of West Virginia," be amended so as to change and enlarge the boundary limits of said school district to include the territory within the county of Wayne, embracing the territory included in the school district of Westmoreland in said county and provide for a submission to the voters of said Westmoreland district the question of whether said Westmoreland district shall consent to be included in the school district of Huntington as expressed by their votes, and make such other amendments to said act as are necessary to put into full force and effect such consolidated territory under the management and operation of the board of education of said school district of Huntington, in case a majority of the voters of said Westmoreland district duly expressed shall be in favor of becoming a part of said Huntington school district.

Section 1. The boundary of the school district of Huntington, in the county of Cabell, comprised within the limits fixed and described in section two of chapter sixteen of the acts of the Legislature of West Virginia, session one thousand nine hundred and nine, and as enlarged by chapter sixty-seven of the acts of one thousand nine hundred and thirteen, shall be changed, modified and enlarged so as to include that part of the territory of Wayne county embraced within the limits of the Westmoreland school district of said county, which Westmoreland school district is described as follows:

Beginning at Wayne-Cabell county line at Fred Zillman orchard; thence along dividing ridge between Four Pole and Bob's branch to an intersection of the dividing ridge between Bob's branch and Haney's branch to the mouth of Bob's

15 branch, leaving out the boy scout camp and Sam Ward prop-
16 erty, to Twelve Pole creek; thence down the east bank of
17 Twelve Pole creek with the meanders thereof, to the Ohio river;
18 thence up the Ohio river to the Cabell county line.

Sec. 2. The county court of Wayne county within ten days
2 after this act becomes effective, shall meet and call an election
3 to be held in said district and shall submit to the voters of
4 said Westmoreland district the question whether the West-
5 moreland district desires to become a part of the school dis-
6 trict of Huntington. The time fixed for said election by the
7 said court shall not exceed thirty days from the date of calling
8 said election and the call for said election shall be published
9 in a newspaper of general circulation published in Wayne
10 county each week, until the time of said election and posted
11 for a like period in three conspicuous places in said Westmore-
12 land school district. The places of voting on said question
13 shall be at the voting places designated by the county court
14 at the last general election in said district, or in case said
15 places cannot be obtained, then at some point near said places.
16 All persons, male and female, who are of the age of twenty-
17 one years at the time of said election and who reside in said
18 school district and who are otherwise entitled to vote in the
19 state, shall be entitled to vote at said election. For the pur-
20 pose of holding said election the county court of Wayne
21 county shall appoint three commissioners and two clerks for
22 each voting place who shall be qualified voters of said West-
23 moreland school district and who shall not be a county or
24 district officer. Before entering upon the discharge of their
25 duties they shall take an oath that they will perform their
26 duties as election officers and will truly and faithfully con-
27 duct said election and make faithful return thereof to said
28 county court. The polls for voting shall be opened at seven
29 o'clock, A. M., and closed at six o'clock, P. M., of the date of
30 election. Votes cast at said election shall be counted by said
31 commissioners of election and shall be certified by them
32 to the county court of Wayne county, together with all the
33 ballots cast at said election in their precinct, which said cer-
34 tificate shall be in form following, to-wit:
35 The undersigned commissioners of voting precinct No.....
36 in Westmoreland school district of the county of Wayne,

37 hereby certify that there were cast at the election called for
 38 the purpose of ascertaining the will of the voters as to whether
 39 or not the Westmoreland school district desired to be included
 40 in the Huntington school district, votes in
 41 favor of being included in the Huntington school district, and
 42 votes against being included in the Hunting-
 43 ton school district. The undersigned return herewith all of
 44 the ballots cast at said election in their precinct.

45
 46
 47 Commissioners of Election.

48 The county court shall cause to be printed a sufficient num-
 49 ber of ballots to accommodate all of the voters of said pre-
 50 cinct which said ballot shall have printed on its face "for
 51 Huntington school district" and directly thereunder, "against
 52 Huntington school district." In case a voter desires to vote
 53 "for Huntington school district," he shall strike out "against
 54 Huntington school district" and in case a voter desires to vote
 55 "against Huntington school district," he shall strike out "for
 56 Huntington school district" and his ballot shall be counted
 57 according to the marking thereon.

Sec. 3. For the purpose of said election the registration
 2 taken and used at the last general election for said district
 3 shall be taken as a basis of voting on said question. The
 4 county court, however, shall appoint two registrars for each
 5 voting precinct in said school district for the purpose of cor-
 6 recting said registration. The said registrars shall sit for two
 7 successive days between the hours of nine o'clock, A. M.,
 8 and six o'clock, P. M., for the purpose of correcting said regis-
 9 tration. They shall give notice at least five days after their
 10 appointment by the county court of Wayne county, of the
 11 time and place of sitting which notice shall be posted in a
 12 conspicuous place near each voting precinct in said district
 13 by the said registrars for at least ten days prior to the time
 14 fixed by them. The said registrars after having corrected
 15 said registration shall transmit the same to the county court
 16 of Wayne county and the county court of Wayne county
 17 shall furnish a copy of the registration of said district to the
 18 commissioners of election, together with the ballots for said
 19 election, not later than one day prior to the day of said elec-

20 ton. No person who is not registered shall be entitled to vote.
21 The registrar shall be entitled to three dollars a day for each
22 day employed in correcting said registration and the commis-
23 sioners of election and clerks each shall receive the sum of
24 three dollars a day for the time employed by them in holding
25 said election, which shall include a day for going after
26 the ballots and supplies from the county court and a day in
27 returning the same.

Sec. 4. Within three days after said election the county court
2 of Wayne county shall meet and canvass the return of said vote
3 and declare the result thereof, and if a majority of the votes
4 cast are for the Huntington school district, then the board of
5 education of the school district of Westmoreland shall imme-
6 diately turn over to the board of education of the school dis-
7 trict of Huntington, all funds, buildings, grounds and all other
8 property at that time within said school district of Westmore-
9 land, which shall then and there become the property of the
10 school district of Huntington and the board of education of
11 the school district of Huntington shall have full control and
12 management thereof, pursuant to law governing and controlling
13 said board of education and the school district of Huntington
14 shall then and there become liable for all the obligations in-
15 cluding the bonded indebtedness of the said Westmoreland school
16 district and the said school district of Huntington may issue
17 and sell any unsold bonds heretofore voted by said Westmore-
18 land district and which have not been sold and thereafter all
19 the laws regulating and governing the school district of Hunt-
20 ington shall control and govern the entire district including
21 the said Westmoreland district.

Sec. 5. Wherein, the laws controlling and governing the
2 school district of Huntington relates to the duties to be per-
3 formed by the assessor of Cabell county and the sheriff of
4 Cabell county, respectively, insofar as the territory of said
5 school district is located in Cabell county, the same duties shall
6 be performed by the assessor of Wayne county and the sheriff
7 of Wayne county, insofar as the territory included in said
8 Huntington school district shall lie in Wayne county and the
9 said assessor of Wayne county and the sheriff of Wayne county
10 shall make such reports and settlements with the board of edu-
11 cation of Huntington school district insofar as Wayne county

12 is concerned, as the assessor and sheriff of Cabell county are
 13 required to do insofar as Cabell county is concerned and the
 14 sheriff of Wayne county shall pay over and account for all
 15 moneys collected by him in the Huntington school district,
 16 which lies in Wayne county as ordered and directed by the
 17 board of education of the school district of Huntington.

All acts and parts of acts inconsistent herewith, are hereby
 repealed.

CHAPTER 104

(House Bill No. 165—By Mr. Smith, of Jackson)

AN ACT to amend and re-enact chapter fifty-four of the acts of one
 thousand eight hundred and seventy-two, and to amend and
 re-enact chapter two hundred and fourteen of the acts of one
 thousand eight hundred and seventy-three establishing the
 independent school district of Ripley.

[Passed March 25, 1925; in effect from passage. Approved by the Governor.]

<p>Sec.</p> <ol style="list-style-type: none"> 1. Independent district created. 2. Territorial limits defined. 3. Creating board of education; tenure. 4. Elections, how held. 5. Candidates, how nominated. 6. Vacancy on board, how filled. 7. Board of education, a corporation. 8. Shall select secretary. 9. Salaries. 10. Meetings, quorum. 11. Board of education, duties of regarding estimates and levies. 12. To provide equip and repair school houses, grounds, etc. 13. Shall lay levies. 14. Levies to be legally collected and 	<p>Sec.</p> <ol style="list-style-type: none"> 15. disbursed. Powers of board; uniform text books with state; all proper pupils to be admitted to high schools. 16. Teachers, how removed. 17. Admission of pupils. 18. Property exempt from taxation, sale or lien. 19. Shall employ principals; qualifications of same. 20. Shall employ teachers; qualifications and salaries. 21. Property of independent district. 22. Schools shall participate in general school fund; high school aid. 23. Inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

That chapter fifty-four of the acts of one thousand eight hundred and seventy-two, as amended and re-enacted in chapter two hundred and fourteen of the acts of one thousand eight hundred and seventy-three, be amended and re-enacted so as to read as follows:

Section 1. The territory included within the boundaries
 2 described in section two of this act shall constitute and is hereby
 3 created and made an independent school district, which shall
 4 be known as the "Independent school district of Ripley."

Sec. 2. The territorial limits of the independent school dis-
 2 trict of Ripley in the county of Jackson, state of West Virginia,

3 shall include all the land embraced within the following limits:
4 Commencing at the south end of the William T. Greer farm at
5 a stake in the Ripley and Charleston pike; thence west with a
6 southern line of said farm to Mill creek; thence down said creek
7 crossing the same to include D. D. Rhodes' dwelling house;
8 thence with a straight line southwest to an old steam saw mill
9 on Mill creek; thence with a western line of the farm known as
10 the Jacob Staats farm to the mouth of Clay Lick run; thence
11 to the dwelling house of J. D. Sayre; thence running a north-
12 east course to the top of a ridge so as to include the farm once
13 owned by C. C. Campbell; thence with a straight line to the
14 northeast corner of E. Maguire's sycamore farm; thence with
15 a straight line south to a rock quarry near the dwelling house
16 of Joseph Taylor; thence south so as to include the farm owned
17 by Amos and Joseph Kidd to the place of beginning.

Sec. 3. There shall be a board of education for said inde-
2 pendent school district, consisting of a president and two school
3 commissioners. In said independent school district at the gen-
4 eral election to be held therein in November, one thousand
5 nine hundred and twenty-six, and every four years thereafter,
6 one president of said board of education, and one school com-
7 missioner shall be elected, whose terms of office shall be for a
8 period of four years; and at the general election to be held in
9 said district in November, one thousand nine hundred and
10 twenty-eight, and every four years thereafter, there shall be
11 elected one school commissioner for a term of four years. The
12 term of office of said president and school commissioners shall
13 commence on the first day of July next after the election at
14 which each of them was elected, and they shall severally hold
15 their said offices for a term of four years and until their suc-
16 cessors have been elected and qualified. *Provided*, that the pres-
17 ent school commissioners and president of the board of educa-
18 tion now in office shall continue to hold their respective offices
19 until the expiration of each of their several terms of office.

Sec. 4. All elections of whatsoever kind held under this act
2 shall be conducted, returned and the results ascertained and
3 declared under the authority of the election officers in the man-
4 ner prescribed by law relating to elections held in the state of
5 West Virginia.

Sec. 5. Candidates to be voted for at any election for mem-
2 bers of said board of education may be nominated by either

3 convention or primary in the manner and under the provisions
4 now or hereafter prescribed by the state laws relating thereto.

Sec. 6. If a vacancy occurs on the board of education it shall
2 be filled by the county superintendent of free schools of Jack-
3 son county by an appointment thereto of some eligible person
4 from the said independent district, and the person so appointed
5 shall hold the said office for the unexpired term and until his
6 successor is elected and qualified.

Sec. 7. The board of education of the said independent dis-
2 trict shall be a corporation by the name of "The board of edu-
3 cation of the independent school district of Ripley, in the
4 county of Jackson," and as such may sue and be sued, plead and
5 be impleaded, contract and be contracted with; may purchase
6 and hold such real estate and personal property as it may deem
7 necessary for the purpose of education in said district, and may
8 receive and hold any gift, grant or donation, devise or bequest
9 for the benefit of the schools in the said district, and may prose-
10 cute in its own name any proceedings now authorized by law
11 or which may be hereafter authorized for the purpose of con-
12 demning lands for school purposes.

Sec. 8. Annually, at the first meeting of the said board of
2 education, which is hereby required to be held on the first Mon-
3 day in July of each year, or as soon thereafter as practicable,
4 the said board of education shall select a secretary, who shall
5 perform the duties required by the general school law of such
6 officer and such other duties as are herein required or may be
7 prescribed by said board of education.

Sec. 9. The salary of the president of the board, the two
2 commissioners and the secretary shall be that as allowed by the
3 general school law and no other.

Sec. 10. Said board of education shall hold regular or stated
2 meetings at such time and places as the board may appoint, and
3 special meetings of said board may be called by the president,
4 or at the request of any member by the secretary. No business
5 may be transacted at a special meeting except that mentioned
6 in the call for such meeting, which shall be in writing and shall
7 be recorded by the secretary in the record book of the proceed-
8 ings of the said board. Two members of the said board shall
9 constitute a quorum for the transaction of business at any meet-
10 ing of said board, *provided*, that all the members shall have had
11 notice of the time, place and purpose of any special meeting
12 called by the president or secretary as herein provided.

Sec. 11. It shall be the duty of the board of education of the independent district of Ripley annually, at the same time and in the same manner now provided, or that may hereafter be provided by the general school law of this state, for the ascertaining and making of estimates and the fixing and laying of school levies by the boards of education of the various school districts within the state for the support of the free schools therein, to ascertain and to make such estimates of the amounts deemed necessary for the support of the schools within the said independent district; to determine, fix and lay such levies on the property located within said independent district for the support of the schools therein. It shall be the duty of the board of education of said independent district annually, at such meeting, to levy as many cents on each one hundred dollars of valuation of the taxable property of the district, according to the last assessment thereof, as will produce the amount necessary, after deducting the sums receivable from the general school fund of the state for teachers' purposes, to continue the schools in session in said independent district for a minimum term of eight months in the graded and elementary schools and for a minimum term of nine months in the junior and senior high schools, and levy in like manner the amount necessary, as shown by the estimate, as will produce sufficient funds for the building fund to operate said schools for the minimum term of eight and nine months respectively as aforesaid; and it shall be the duty of said board of education to levy and provide sufficient funds for all purposes to keep said schools in session for the full minimum term as herein provided; and the said board of education is hereby authorized and empowered to lay a levy in addition to the levies authorized by the general school law of the state, sufficient for all purposes to conduct the schools of said independent district for the term fixed, this provision to apply alike to the graded or elementary schools and the high school or schools.

Sec. 12. It shall be the duty of the board of education to provide by purchase, condemnation, leasing, building or otherwise, schoolhouses and grounds, furniture, fixtures and appendages, and keep the same in good order and repair; and to supply the said schoolhouses with fuel and light and other things necessary for their comfort and convenience.

Sec. 13. For the purposes mentioned in any of the preceding sections, and for the purpose of paying teachers and other school

3 officers, the interest and sinking funds on bonds, or any other
4 legal obligations, which the board of education of the independ-
5 ent school district of Ripley now owes, or may hereafter be
6 incurred by the said independent school district, the said board
7 shall annually lay such levies, in such manner as is provided
8 by the general school law of the state. Elections for bond issues
9 shall likewise be conducted in accordance with the general school
10 law of this state.

Sec. 14. The levies made under the provisions of this act
2 shall be collected and disbursed as now provided by law. The
3 board of education shall not, during any one year, incur any
4 expense that shall exceed the amount of available funds received
5 for school purposes during that year.

Sec. 15. The said board of education shall have power to
2 establish within the district, such graded schools, including high
3 schools, as may, in their judgment, be best for the interests of
4 the district. The branches and text books to be taught in the
5 high schools and other schools within the district shall be those
6 specified by the state board of education and the state superin-
7 tendent of free schools. The said high schools shall be open to
8 all the pupils in the district, but no pupil shall be entitled to
9 admittance to said high schools until the superintendent or
10 principal shall have been satisfied that the pupil shall have
11 made due proficiency in the branches taught in the graded or
12 elementary schools of the district, which may be ascertained by
13 an examination or otherwise as the person in charge of said high
14 schools may deem best; but in all cases any pupil holding a free
15 school diploma shall be admitted to said high schools without
16 examination provided such pupils are otherwise proper persons
17 to be admitted to such high schools.

Sec. 16. Teachers shall be subject, in all respects, to the
2 rules and regulations adopted by the board of education, and
3 they may be removed by the board for incompetency, immoral
4 conduct, wilful violation of the rules of the board or for any
5 other cause which the said board in its discretion may deem
6 proper and just, upon complaint of the principal or superintend-
7 ent or any member of the board.

Sec. 17. Admission to the various schools of the district shall
2 be gratuitous to all white children, wards, and apprentices or
3 actual residents within the district, between the ages of six

4 and twenty-one years. Non-residents of the districts may be
5 allowed to attend the elementary schools upon payment in ad-
6 vance of such tuition as the board of education may determine;
7 *provided, always*, that the general school law in effect or any
8 general law that may hereafter be passed relative to the tuition
9 of non-residents desiring to attend any high school within the
10 district shall govern and such persons may be charged the rate
11 provided by law in such cases and any district in which such
12 non-residents may reside shall pay such tuition fee; *provided*,
13 such district does not maintain a high school of its own.

Sec. 18. All schoolhouses, schoolhouse sites, and other prop-
2 erty real or personal for the use of the schools of the said dis-
3 trict, shall be exempt from taxation; and also from sale on exe-
4 cution or other process in the nature of an execution or other-
5 wise, and no person, firm or corporation shall be permitted to
6 acquire a lien on any such property in any manner whatsoever.

Sec. 19. The board of education is hereby authorized to
2 employ principals for the high schools in the district and also
3 for the graded schools or elementary schools in the district and
4 to fix their salaries as provided by law; *provided, however*,
5 that it shall always be the duty of the said board to employ
6 only such person or persons as principal of the high schools
7 as will enable such schools to be classified as first class high
8 schools by the state superintendent of free schools; *provided*,
9 *further*, that no person shall be employed as principal of the
10 high school or schools who is not at the time of his employ-
11 ment a graduate of a reputable college or university approved
12 by the state superintendent of free schools of West Virginia.

Sec. 20. The board of education shall, in accordance with
2 the general school law, appoint all teachers for the high schools
3 and graded or elementary schools in the district and fix their
4 salaries; *provided*, the salaries of elementary teachers shall not
5 be lower than the minimum provided by the general school law;
6 but no person shall be employed to teach in any school of the
7 district who shall not first have obtained from the state authori-
8 ties a certificate of qualification as required by law; and *pro-*
9 *vided, further*, that no person shall be employed to teach in
10 any high school of the district unless such person is a graduate
11 of a reputable college or university, except teachers of music,
12 manual training teachers and commercial teachers, in addition
13 to the requirements set forth above.

Sec. 21. All school houses, school house sites and all other property of whatsoever description of the independent school district of Ripley shall by the passage of this act and its enactment into law become the property of the independent school district of Ripley and all indebtedness of the said independent district of whatsoever description, including all bond issues, shall be assumed by and are hereby made obligations of the independent school district of Ripley.

Sec. 22. The elementary and graded schools in the said independent district shall be entitled to receive their just share and proportion of the general school fund in the same manner and to the same extent as schools in any other school district in the state of West Virginia, and it shall be the duty of the state superintendent of free schools to ascertain the amount to which the said district is entitled as is required of him by the general school law of this state; and it shall likewise be the duty of the said state superintendent of free schools to apportion to the high school in the district its just proportion of the high school aid as now provided by the general school law of the state.

Sec. 23. All provisions of the general school law of the state and all laws and acts heretofore existing, which are in any manner inconsistent with the provisions of this act, shall be void within the district; and all acts or parts of acts in conflict herewith are hereby repealed; otherwise the said general school law shall remain in full force and effect in this district as elsewhere in the state.

CHAPTER 105

(House Bill No. 177—By Mr. Fry)

AN ACT to amend and re-enact chapter forty-seven of the acts of the legislature, regular session, one thousand nine hundred and twenty-one, relating to the creation, establishment and maintenance of a county high school in the county of Wayne, West Virginia.

[Passed April 1, 1925; in effect 90 days from passage. Approved by the Governor.]

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Wayne county high school established. 2. Board of directors, how appointed; qualifications. 3. Same: non-partisau; serve without | <p>Sec.</p> <ol style="list-style-type: none"> 4. pay. 5. Same: tenure determined by lot. 5-a. Same: explanation of tenure. 5-a. Same: elections to, how membership distributed. |
|---|--|

Sec. 6. Same: vacancies; how filed. 7. Same: how removed from office. 8. Same: organization. 9. Same: election of officers. 10. Same: salary record book and duties of secretary. 11. Same: meetings. 12. Same: a body corporate. 13. Same: meetings for estimates and levies. 14. Same: levy for teachers.	Sec. 15. Same: levy maintenance and new building. 16. Same: duties of; quorum. 17. Old directors turn over property. 18. Board to equip; employ teachers. 19. Same: employ principal; qualifications. 20. Same: teachers' salaries; remove same. 21. Further administration.
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Be it enacted by the Legislature of West Virginia:

Section 1. The magisterial districts of Union, Butler, Lincoln, 2 Grant, and Stonewall, Wayne county, shall constitute the territory creating, establishing and maintaining the aforesaid 3 Wayne county high school.

Sec. 2. As soon as practicable after the passage of this 2 act, a board of directors shall be appointed in the manner following: 3

4 The state superintendent of free schools shall appoint five 5 persons, one each from five magisterial districts above named, 6 which persons shall possess such educational, qualifications 7 character, judgment and fitness as in the opinion of the said 8 superintendent shall render them and each of them suitable 9 persons for the proper management of the said high school.

Sec. 3. The said board of directors shall be non-partisan, 2 that is to say, not more than three of the said board shall belong to the same political party, and further, the members of 3 the said board shall serve without compensation. 4

Sec. 4. The terms of office of the above named board shall 2 be as follows, to wit: One of the said board shall hold office for 3 a term of two years; two of the said board shall hold office for 4 a term of four years, and two of the said board shall hold office 5 for a term of six years.

6 The method or manner of determining the several periods 7 of holding shall be determined as follows, to-wit: After the 8 organization of the board at their first meeting, the board shall 9 determine their several periods by lot.

Sec. 5. The short term member or the two-year man shall 2 serve for the school years one thousand nine hundred and twenty-five and twenty-six and one thousand nine hundred and 3 twenty-six and twenty-seven, until his successor is duly elected 4 and qualified. The middle term members or four-year men 5 shall hold office until July first one thousand nine hundred and 6

7 twenty-nine, or until their successors are elected and duly qual-
8 ified. The long term men or the six-year men shall hold office
9 until July first, one thousand nine hundred and thirty-one,
10 or until their successors have been elected and duly qualified.

Sec. 5-a. At any general election next preceding the expira-
2 tion of the term of office of any member of the board of direc-
3 tors, the voters of the districts designated in section one shall
4 elect a member to said board who shall be a resident of the dis-
5 trict in which the member whose term is so expiring resides, and
6 who shall hold office for a period of six years or until his suc-
7 cessor is elected or appointed and qualified.

Sec. 6. Vacancies by resignation, death or otherwise during
2 any office term, before the regularly expired term shall be
3 filled by appointment as above described by the state superin-
4 tendent.

Sec. 7. Any one or more than one or all of the members of
2 the said board of directors may be removed from office for
3 cause, but the member or members to be removed shall be pro-
4 ceeded against according to law, the procedure being by im-
5 peachment filed according to law, by a tax-payer who contrib-
6 utes to the support of the said high school.

Sec. 8. Said board of directors shall, as soon as practicable
2 after notification of their appointment assemble in the county
3 clerk's office at Wayne and organize by elected one of their
4 number as president. It shall be the duty of the said presi-
5 dent to preside at all meetings and perform all functions as are
6 usually required by presidents of such boards. The said board
7 may appoint one of their number vice president, whose duty it
8 shall be to function as president in absence of the regularly
9 constituted president.

Sec. 9 Said board of directors shall appoint some com-
2 petent person secretary of the board at the time of their organ-
3 ization. The term of the president, vice president and secretary
4 shall be for a term of two years; the term of the first officers
5 to be elected expiring on June thirtieth, one thousand nine
6 hundred and twenty-seven, and at the first meeting thereafter
7 the board shall elect new officers for the coming term of two
8 years.

Sec. 10. The board of directors shall have authority to fix
2 the salary of the secretary, which salary shall in no case exceed

3 three hundred dollars per annum. It shall, further, be the
4 duty of the said board of directors to furnish the secretary
5 with suitable books for records of all meetings, all orders, con-
6 tracts, drafts in payment for all work of any kind or character,
7 purchase of land, materials for erection of buildings of all
8 kinds, and the said records shall be read and approved by a
9 quorum of the board and such approval shall be duly signed
10 by the president and countersigned by the secretary in open
11 session. It shall further be the duty of the secretary to keep
12 the records of the board in the fire-proof vaults of the county
13 clerk's office until such time as the board may furnish a fire-
14 proof vault at the said high school building in which to pre-
15 serve and protect the said board's records.

Sec. 11. The board shall meet in regular sessions upon the
2 fourth Saturday in each calendar month of the year, also upon
3 the second and fourth Tuesday in August and on written re-
4 quest of three members of the board, signed by the secretary,
5 posted upon schoolhouse door, a copy of call mailed to each
6 member of the board by registered mail, return receipt being
7 requested, mailing at least three days before the date of such
8 meeting in special session.

Sec. 12. The board of directors is hereby made a corporate
2 body and as such may sue and be sued in their corporate name,
3 "the board of directors of the Wayne county high school."

Sec. 13. The board of directors shall meet on the second
2 Tuesday in August to make up an estimate of expenditures as
3 provided by law and shall meet on the fourth Tuesday in
4 August of each year for the purpose of laying the levies as
5 provided by law.

Sec. 14. The board of directors shall lay a levy not exceed-
2 ing ten cents on each one hundred dollars assessed valua-
3 tion of all property in Union, Butler, Lincoln, Grant and
4 Stonewall magisterial districts, which levy shall be known as
5 the teacher's levy.

Sec. 15. The board of directors shall lay a levy not to
2 exceed the sum of ten cents on each one hundred dollars
3 of assessed valuation of all property in Union, Butler, Lincoln,
4 Grant and Stonewall magisterial districts, which shall be known
5 as "maintenance and new building levy." The said board is
6 hereby authorized and directed to transfer to this fund the

7 surplus money heretofore raised by taxation now in the hands
8 of the sheriff of Wayne county, known as "maintenance build-
9 ing levy."

Sec. 16. It shall be the duty of the board of directors to
2 employ competent and efficient janitors and such other helpers
3 as may be necessary to take proper care of the buildings and
4 grounds belonging to the said high school, approaches to the
5 high school building, improving the grounds by building neces-
6 sary walks, clearing off, cleaning up and beautifying the grounds
7 and putting grounds and buildings in a sanitary condition.
8 The board of directors shall pay the expenses for the above
9 described and necessary services and work out of the "main-
10 tenance building fund."

11 The usual rules as to quorum, motions, voting, etc., shall at
12 all times govern the said board of directors in their meetings
13 and deliberations.

Sec. 17. It shall be the duty of the board of directors of
2 the Wayne county high school as constituted by the act of the
3 legislature of one thousand nine hundred and twenty-one,
4 chapter forty-seven, to turn over to the board of directors as
5 constituted by this act all the books, records, contracts, papers,
6 property and files in their possession, since by virtue of the pas-
7 sage of this their duties, relations and connection with the
8 Wayne county high school cease immediately upon the passage
9 of this act.

Sec. 18. It shall be the duty of the board of directors of the
2 Wayne county high school as herein provided in this act to
3 take such steps as are necessary and as quickly as practicable to
4 do such things as may be necessary in providing scientific ap-
5 paratus, and the equipment necessary in the science depart-
6 ment and the domestic art department in conformity with the
7 requirements of the state board of education for making the
8 Wayne county high school a standard or first-class high school.
9 The board of directors shall employ only such teachers as are
10 holders of degrees from colleges or universities recognized by
11 our state department of schools. The board of directors, how-
12 ever, if in their judgment they deem it proper may provide for
13 a class or classes that are necessary to fit pupils that are lack-
14 ing in preparation in elementary instruction, though they be
15 holders of grade diplomas in order to equip the said diploma

16 holders for proper and efficient work in the standardized or
17 first-class high school.

Sec. 19. It shall be the duty of the board of directors to seek
2 out, engage and employ or hire a principal or head of the Wayne
3 county high school who shall be a holder of a degree from a
4 college or university that is recognized by our state educational
5 department of schools. The said principal of the said high
6 school shall have had requisite experience of successful func-
7 tioning as teacher. The said board of directors shall consult
8 and counsel with the said principal after his employment re-
9 garding the engagement or hiring of other teachers under the
10 said principal, but the board shall be the final arbiters in any
11 and all cases of employment.

Sec. 20. The said board of directors shall fix the salaries
2 of all teachers in the said high school and in payment for the
3 services of the said teachers may issue drafts on the aforesaid
4 teachers' fund. The said board of directors may for proper
5 cause and in the manner provided by law remove any or all
6 teachers in their employ.

Sec. 21. The said board of directors shall immediately after
2 their qualification and organization assume full charge of the
3 said high school and immediately advertise for teachers for
4 the school year of one thousand nine hundred and twenty-five
5 and twenty-six and take full charge of the said high school
6 and do all things necessary for the conducting of the school in
7 an orderly manner. It shall be their duty to assume obliga-
8 tion for the payment of all outstanding debts, make any and
9 all changes necessary in the new high school building, providing
10 suitable and necessary and sanitary toilets in the said building,
11 drainage of all wastes from the said building, putting in the
12 necessary sewerage system and pipes for drainage under the
13 state highway and also under the N. & W. railway thence into
14 the river or a sanitary septic tank.

CHAPTER 106

(House Bill No. 200—By Mr. King, by request)

AN ACT to amend and re-enact sections one, six, seven, fourteen,
eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-
three and twenty-eight of chapter seventy-three of the acts

of the legislature of West Virginia, regular session of one thousand nine hundred and three, establishing the independent school district of Richwood in Nicholas county, and to add thereto sections twenty-nine and thirty.

[Passed April 15, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.		Sec.	
1.	Territory embraced.	21.	compensation.
6.	Secretary, duties of; compensation.	22.	Administration; building fund
7.	Meetings; quorum; members' compensation.	23.	Estimates and levies.
14.	Sheriff's settlement.	23.	Shall not incur expense exceeding available funds.
18.	Teachers' qualifications.	28.	Provisions of law void within district.
19.	Subject to rules; may be removed, when.	29.	Referendum of change of boundaries.
20.	Board employ teachers and fix	30.	Ballot, form of; election, how conducted; expense, how paid.
Sec.			

Be it enacted by the Legislature of West Virginia:

That sections one, six, seven, fourteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-eight of chapter seventy-three of the acts of the legislature of West Virginia, regular session of one thousand nine hundred and three, be amended and re-enacted, and that there be added to said chapter sections twenty-nine and thirty, so as to read as follows:

Section 1. That the territory of Beaver district included
 2 within the corporate limits of the city of Richwood in Nicholas
 3 county and bounded as follows, to-wit: Beginning at a stake
 4 on the east side of the North fork of Cherry river in the bottom
 5 above the handle factory, corner to the city of Richwood;
 6 thence south fifty-eight degrees west crossing the North fork
 7 of Cherry river six thousand one hundred and forty-five feet
 8 to a stake, corner to said city; thence continuing with the
 9 lines of said city limits south eighty-four degrees thirty minutes
 10 west five thousand five hundred and eighty-five feet to the
 11 center of that fishing rock on the north bank of Cherry river
 12 below drain; thence south twenty degrees east crossing Cherry
 13 river two thousand six hundred and forty feet to a stake;
 14 thence north eighty-four degrees thirty minutes east
 15 five thousand three hundred feet to a stake; thence south
 16 thirty degrees east one thousand one hundred and thirty-
 17 nine feet to the upper end of a large long rock; thence north
 18 eighty-four degrees thirty minutes east five thousand
 19 two hundred and eighty-four feet to a stake; thence north
 20 twenty-one degrees east crossing the south fork of Cherry
 21 river two thousand six hundred and eighty-nine feet to a

22 stake; thence north twenty-three degrees west one thousand
23 eight hundred and fifty feet to a stake; thence north thirty-
24 seven degrees west two thousand five hundred and eighteen
25 feet to the beginning, containing one thousand and ninety
26 acres, more or less, shall constitute an independent district
27 to be known as "the independent district of Richwood."
28 And all the orders, resolutions, rules and regulations of the
29 'board of education of Richwood independent school dis-
30 trict' in force on the day preceding the passage of this act,
31 which are not inconsistent therewith, shall be and remain
32 in full force and effect over the entire territory of 'the inde-
33 pendent district of Richwood' as established and bounded
34 by this act until changed in the manner provided by law,
35 and the officers in office in said independent district at the
36 time this act takes effect shall remain in office until their
37 successors are elected and qualified, and after this act takes
38 effect shall have jurisdiction over all the territory embraced
39 in the boundary specified in this act; and nothing in this
40 act shall be construed or held to in any manner effect or
41 impair any of the bonds, obligations or indebtedness of said
42 independent district issued or contracted prior to the time
43 this act takes effect, but on the contrary the said independent
44 district of Richwood as hereby bounded and established shall
45 be liable for all the bonds, obligations and indebtedness of
46 'the independent district of Richwood' as though the same
47 had been created after this act went into effect.

Sec. 6. The secretary shall record in a book provided for
2 the purpose, all of the official acts and proceedings of the
3 board, which shall be a public record, open to the inspection
4 of all persons interested therein. He shall preserve in his
5 office all papers containing evidence of title, contracts and
6 obligations, and in general shall record and keep on file in
7 his office all such papers and documents as may be required
8 by any of the provisions of this act or by any order of the
9 board of education. He shall make such reports to the county
10 superintendent as may be required by the general school law
11 of the state. For his services he shall receive such compensa-
12 tion as the board may allow. In his absence the board may
13 appoint a secretary *pro tempore*.

Sec. 7. The board of education shall hold stated meetings
2 at such times and places as they shall appoint, not less than

3 three members being required to constitute a quorum for the
4 transaction of business. Special meetings may be called by
5 the president, or at the request of any member, by the secre-
6 tary. The concurrence of three members of the board shall
7 be required to elect superintendent, principals or teachers
8-9 and to decide all questions involving the expenditure of money.
10 The members of the board of education shall each receive a
11 compensation of three dollars for each meeting of the board
12 attended by them, and compensation shall not be paid said com-
13 missioners for any meeting of the board at which they are not
14 present.

Sec. 14. The sheriff shall annually, on or immediately before
2 the first day of July, make such settlement with the board
3 of education as the general school law may provide.

Sec. 18. The qualifications of superintendent, principals and
2 teachers in said independent district shall be the same as those
3 prescribed by general law for teachers in the public schools of
4 the state.

Sec. 19. Teachers and principals shall be subject in all
2 respects to the rules and regulations adopted by the board of
3 education and the superintendent of schools of the independent
4 district, and they may be removed by said board of education
5 for immorality, incompetency, cruelty, insubordination, in-
6 temperance or wilful neglect of duty; *provided*, that the charges
7 be stated in writing and that the teacher be given an oppor-
8 tunity to be heard by the board upon not less than ten days'
9 notice, and, *provided*, that in all cases when the board is not
10 unanimous in its decisions to suspend or dismiss, the principal
11 or teacher so suspended or dismissed shall have the right of
12 appeal to the state superintendent of schools.

Sec. 20. The board of education shall appoint all teachers
2 and principals and provide for substitutes when necessary for
3 all the public schools within the said district and fix their
4 compensation. The said board shall also employ janitors and
5 custodians of their buildings and fix their compensation, and
6 remove such janitors whenever it shall appear to said board,
7 from any cause, that their removal is for the best interest of the
8 schools of the said district.

Sec. 21. It shall be the duty of the board of education to
2 provide by purchase, leasing, building, or otherwise all neces-
3 sary school buildings, grounds, furniture and fixtures, appara-

4 tus and appliances, and all other necessary supplies which it
5 deems necessary to maintain the schools and for the educa-
6 tion of the children of school age within said independent dis-
7 trict, and to keep the school property in the said district in
8 good repair and to supply the school buildings therein with
9 proper fuel or heat and light and other things necessary for
10 the comfort and conveniences of the said schools, and to pay
11 the cost of same out of the building fund of said district.
12 The proceeds of the taxes levied for the purpose mentioned
13 in this section or property sold, of all donations and devises
14 applicable to any of the purposes mentioned in this section
15 shall constitute a fund to be called the "building fund," to
16 be appropriated exclusively to the purposes mentioned in this
17 section.

Sec. 22. It shall be the duty of the board of education of
2 the independent district of Richwood annually at the same
3 time and in the same manner now provided or as may here-
4 after be provided by the general school law of this state for
5 ascertaining and making estimates and fixing and laying levies
6 by the boards of education of the various school districts within
7 the state for the support of the free schools therein to ascer-
8 tain and to make such estimates of the amounts necessary for
9 the support of the schools within the said independent district
10 and to determine, fix and lay such levies on the property
11 located within said independent district for the support of
12 the schools therein. It shall be the duty of the board of
13 education of the said independent district of Richwood an-
14 nually to levy as many cents on each one hundred dollars
15 valuation of the taxable property of the district according
16 to the last assessment thereof as will produce the amount
17 shown by the estimate of said board to be necessary to be
18 levied for building fund purposes, and to levy in like manner
19 the amount necessary, after deducting the sum received from
20 the general school fund of the state, for teachers' purposes to
21 continue the schools in session in said independent district
22 for a minimum term of nine months in the graded and
23 elementary schools and for a minimum term of nine months
24 in the junior and senior high schools; and to levy and pro-
25 vide sufficient funds for all purposes to keep said schools in
26 session for the full minimum term as herein provided; but

27 the levy for elementary teachers' fund shall not exceed one
28 dollar and the levy for elementary maintenance fund shall
29 not exceed twenty-five cents on each one hundred dollars valua-
30 tion of the taxable property of said independent district, unless
31 authorized by general law, and other levies shall not exceed
32 the maximum rates permitted for the same purposes by general
33 law; and said board of education may in its discretion keep
34 the graded and elementary schools of said district in session
35 for less than nine months, but not less than eight months, in
36 any school year, and may lay its levies accordingly. Such
37 money received from the state and from levies for teachers'
38 purposes shall constitute a special fund to be called the
39 "teachers' fund," and no part of same shall be used for any
40 other purpose than the payment of teachers' salaries and the
41 salary of the district superintendent.

Sec. 23. The levies made under the provisions of this act
2 shall be collected as now prescribed by law. The board of
3 education shall not during any one year incur any expense
4 that shall exceed the amount of available funds received and
5 on hands for school purposes during that same year, but may
6 issue and sell its bonds for the purposes and in the manner pro-
7 vided by general law.

Sec. 28. All provisions of the general school law of the
2 state which are in any manner inconsistent with the provisions
3 of this act shall be void within the district; otherwise the said
4 general school law now existing or hereafter enacted shall be
5 in full force and effect in this district as elsewhere in the state.

Sec. 29. Section one of this act as hereby amended shall
2 not be effective to change the boundaries of the independent
3 district of Richwood so as to conform to the corporate bound-
4 aries of the city of Richwood as herein provided unless the
5 people of said Beaver district by a majority of the votes cast
6 at an election to be held on the third Tuesday in June, one
7 thousand nine hundred and twenty-five, or at any subsequent
8 election, at the usual voting places in said Beaver district shall
9 declare in favor thereof. And unless and until a majority of
10 the votes of said Beaver district shall in such election declare
11 in favor of changing the boundaries of said independent dis-
12 trict as provided in section one of this act the boundaries of
13 said independent district shall be and remain as at present.

Sec. 30. The election provided for in section twenty-nine of 2 this act shall be by ballot and those voting in favor of the said 3 change of boundaries of said independent district shall have 4 written or printed on their tickets the words "For Change in 5 Boundaries of the Independent District of Richwood" and 6 those voting against the said change of boundaries thereof shall 7 have written or printed on their tickets the words "Against 8 Change in Boundaries of the Independent District of Rich- 9 wood." The election shall be superintended, conducted and 10 the result thereof ascertained and declared by officers ap- 11 pointed for that purpose by the county court of said Nicholas 12 county, and notice thereof shall be published once a week for 13 two successive weeks next prior to the time of holding said 14 election in two weekly newspapers published in Nicholas county; 15 and the provisions of the election law in this state so far as 16 applicable shall be in force and govern said election. If for 17 any cause said election shall not be held on said third Tues- 18 day in June, one thousand nine hundred and twenty-five, as 19 herein provided same shall be held at such time as soon as 20 reasonably practical thereafter as shall be ordered by said 21 county court. The expense of holding such election and ascer- 22 taining and declaring the result of said election shall be paid 23 out of the building fund of said independent district of Rich- 24 wood. But double election boards and challengers shall not be 25 required for conducting said election.

CHAPTER 107

(House Bill No. 240—By Mr. King)

AN ACT to amend and re-enact section seven of chapter twenty-six of the acts of the regular session of the legislature of West Virginia, of one thousand nine hundred and eleven, and to amend chapter twenty-six, acts of the regular session of the legislature of West Virginia of one thousand nine hundred and eleven, and chapter one hundred and thirty-six, acts of the regular session of the legislature of West Virginia, of one thousand nine hundred and fifteen, and chapter forty-eight, acts of the regular session of the legislature of West Virginia, of one thousand nine hundred and twenty-one, and chapter ninety-four, acts

of the regular session of the legislature of West Virginia of one thousand nine hundred and twenty-three, relating to the establishing, governing and maintaining of the Nicholas county high school, by adding sections ten and eleven thereto.

[Passed March 20, 1925; in effect from passage. Approved by the Governor.]

Sec.

7. Compensation board of directors.

10. Additional levy authorized.

11. Shall hire teachers, when; written contract with same; princi-

pal may expel; action reviewable.
Teachers shall file certificates.
Boards may dismiss teacher,
when.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter twenty-six, acts of the regular session of the legislature of West Virginia of one thousand nine hundred and eleven be amended and re-enacted so as to read as herein below set out, and that sections ten and eleven, as herein below set out be added to the above mentioned acts relating to the establishing, governing and maintaining of the Nicholas county high school.

Section 7. The members of said board of directors shall be
2 allowed a compensation of three dollars and fifty cents per day
3 for their services for the time actually employed in transact-
4 ing the business of said high school, not to exceed twelve days
5 in any one year.

Sec. 10. Said board of directors is hereby authorized to lay
2 an additional levy of not to exceed three cents on the one hun-
3 dred dollars of taxable property in said county, as ascertained
4 by the last preceding assessment for state and county purposes,
5 for the purpose of procuring sufficient building, room or accom-
6 modation and equipment, furniture, fixtures and supplies for
7 the maintenance and continuation of a normal or teachers'
8 training department as provided for first class normal training
9 high schools under the law of this state. And said board of di-
10 rectors is hereby authorized to procure such accommodation,
11 equipment, furniture, fixtures and supplies, either by contract
12 and agreement or by the erection of necessary building or room,
13 and purchase of equipment, furniture, fixtures and supplies.
14 And such additional levy may be laid and continued through
15 the fiscal years of one thousand nine hundred and twenty-five,
16 one thousand nine hundred and twenty-six, one thousand nine
17 hundred and twenty-seven, and one thousand nine hundred
18 and twenty-eight, if deemed necessary and advisable by said
19 board of directors.

Sec. 11. The board of directors shall on the first Tuesday in
2 July in each year, or as soon thereafter as practicable, select

3 and contract with a principal and other teachers and employees
4 and fix their salaries or compensation for the school year, and
5 such contract shall be in writing and signed by the parties
6 thereto, and filed in the office of the secretary of said board of
7 directors.

8 The principal of said school may suspend or expel any stu-
9 dent or pupil for immorality, insubordination, disorderly,
10 refractory, indecent or improper conduct, which action of
11 such principal shall be subject to review and affirmation
12 or reversal by the board of directors, and any such
12a suspension or expulsion by such principal shall be, within
13 forty-eight hours, reported by him to the parent or guardian
14 of such student or pupil, and also to each member of the board
15 of directors, with a brief statement of his reasons for such sus-
16 pension or expulsion. Such report may be made by mailing,
17 postage prepaid, a copy of same to such parent, guardian or
18 director, addressed to him at his last known postoffice address.

19 The board of directors shall not issue any drafts to or pay in
20 any manner any salary or compensation to any principal,
21 teacher, or instructor in said high school until such principal,
22 teacher or instructor shall have first filed all necessary creden-
23 tials, including a valid teachers' certificate, with the secretary
24 of said board of directors, which secretary shall properly file
25 and preserve the same with the papers in his office.

26 The board of directors is hereby authorized to dismiss any
27 principal, teacher or instructor selected and contracted with by
28 them, for immorality, incompetency, cruelty, intemperance,
29 wilful neglect of duty or refusal to comply with any reasonable
30 and proper requirement of her superior in the school, or for her
31 refusal to comply with any reasonable and proper requirement
32 made of her by the board of directors. Any such principal,
33 teacher, or instructor shall have the right of appeal to the state
34 superintendent of schools, unless at least four of said board of
35 directors concur in her dismissal, but when at least four mem-
36 bers of said board of directors shall concur in such dismissal,
37 then such action shall be final.

CHAPTER 108

(House Bill No. 268—By Mr. Dorsey)

AN ACT to authorize the board of education of Black Fork district
in Tucker county, West Virginia, to issue bonds for the con-

struction of two school buildings in said district, and to lay a special levy to create a sinking fund to pay said bonds and the interest thereon.

[Passed April 15, 1925; in effect 90 days from passage. Approved by the governor.]

Sec. 1. Bonds; who authorized to issue; amount; purpose of		Sec. 2. Bond issue to be submitted to voters.
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Black Fork district in Tucker county, West Virginia, is hereby authorized to issue and sell bonds in an amount not to exceed three per cent of the value of all the taxable property of said district, including all unpaid school bonds of said district, for the purpose of erecting one school building at Parsons and another school building at Hendricks-Hambleton in said district. Said bonds shall be payable in two, three, four, five, six, seven, eight, nine and ten years after date of issue, and shall bear interest at not exceeding six per cent per annum, and shall be paid and retired in eight equal payments as stated above.

Sec. 2. The board of education shall, if they desire to issue bonds under the provisions of this act, submit the matter of school bonds to the voters of the district in the manner elsewhere provided by law, before the thirtieth day of June, one thousand nine hundred and twenty-five, and if the bond issue receive the majority required by the constitution, then said board shall proceed to lay a levy sufficient to provide a sinking fund to pay off the bonds in the time herein named, including the interest on the same, laying the first of said levies in the year one thousand nine hundred and twenty-five.

CHAPTER 109

(House Bill No. 273—By Mr. Weiss)

AN ACT increasing the maximum levy that may be laid by the board of education of the independent school district of Wheeling for new building and improvement fund purposes, and making such changes in the law governing said independent school district as will enable its board of education to lay

levies and make financial and statistical reports more in conformity with the levies and reports in other school districts, and repealing all acts or parts of acts inconsistent with this act.

[Passed March 10, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Board meetings.
2. What statement must show; correct same after objection heard, enter same as finally approved, levy accordingly for elementary, high school, new building and improvement and library.
3. Certified copies of levies to superintendent of schools, tax commissioner and collecting officer,

Sec.

- collecting officer's settlement, what to show.
4. Referendum for additional levy.
5. Levy funds, how expended.
6. May not expend money in excess of legal levy nor attempt to lay levy unauthorized; violations void.
7. Violations; penalties.
8. Conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of the independent school district of Wheeling shall hold a session on the second Tuesday in August in each year for the transaction of business generally, and especially for the transaction of business as herein required.

Sec. 2. At its session held on the second Tuesday in August as aforesaid, the said board shall ascertain the condition of the fiscal affairs of its said district and make up an itemized statement thereof distinguishing between the elementary and high schools and the various funds hereinafter provided for each, which statement shall set forth in detail:

First. The separate amounts due the various funds of said district, and the amounts that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year.

Second. The debts and demands owed by the said district and the debts and demands that will become due and payable during the current fiscal year, including interest on any indebtedness, funded, bonded or otherwise.

Third. All other expenditures under the several heads of expenditures, to be made and payable out of the levy of the said district for the current fiscal year, with proper allowances for delinquent taxes, exonerations and contingencies. Said statement shall also set forth the separate amount necessary to be raised for each fund by the levy of taxes for the current fiscal year, the proposed rate of such levy on each one hundred dollars assessed valuation of the taxable property in the said district for each of such funds, and the separate and aggregate amounts of the assessed valuation of real estate, personal property, and public utility property assessed by

26 the board of public works. A copy of such statement duly
27 certified by the clerk of the said board shall immediately be
28 forwarded to the state tax commissioner, and said statement
29 shall, before the next meeting of said board, be published once
30 in two newspapers of opposite politics in said school district,
31 if there be two such newspapers therein. If there be but one
32 newspaper published in said district, the publication shall be
33 made therein. The session shall then stand adjourned until
34 the fourth Tuesday in August, at which time it shall recon-
35 vene. And the said board of education shall then hear and
36 consider any objections made orally or in writing by the prose-
36a cuting attorney of Ohio county, by the state tax commissioner
37 or his representatives, or by any tax payer of the said school
38 district, to the said estimate and proposed levy, or any item
39 thereof. It shall be the duty of the said board of education
40 to enter an order showing the objections so made, setting forth
41 the reasons and grounds for such objections. But the failure
42 of any officer or tax payer to offer objections as herein pro-
43 vided shall not preclude him from pursuing any legal remedy
44 necessary to correct any levy made by said board of education.
45 After said objections have been made and heard, the said board
46 of education shall thereupon reconsider the proposed original
47 estimate and proposed rate of levy, and if the objections
48 thereto or any part thereof appear to be well taken, the said
49 board of education shall correct the same accordingly, and it
50 shall thereupon be approved, and when approved shall, with
51 the order approving it, be entered by the clerk of said board
52 of education in the proper record book. After having entered
53 the statement as finally approved in its book of record or pro-
54 ceedings, the said board shall thereupon levy as many cents
55 on each one hundred dollars assessed valuation of the taxable
56 property in said school district, according to the last assess-
57 ment thereof, as will produce the amounts shown by the state-
58 ment to be necessary, as follows:

59

For Elementary School Purposes

60 (a) For maintenance fund purposes, including kinder-
61 gartens and medical inspection, for defraying the maintenance
62 expenses for a fiscal year, a levy not to exceed fifteen cents.

63 (b) For teachers' fund purposes, including kindergartens
64 and medical inspection, a levy not to exceed forty cents for the
65 purpose of maintaining the schools of the said district for a

66 term of not less than nine months, or for a longer term where
67 the same has been extended by the said board of education.

68 (c) If the term of school in said district shall be so ex-
69 tended for a longer period than nine months, and the maxi-
70 mum rate of levy herein provided for maintenance building
71 fund purposes and teachers' fund purposes will not provide
72 sufficient funds to defray the expenses of the term as so ex-
73 tended, the said board of education shall lay a levy sufficiently
74 high to provide the funds necessary to conduct the schools in
75 said district for the term as so extended, and such levy shall
76 be separated into, and designated as, maintenance building
77 fund levy, and teachers' fund levy. The term of school in
78 said district as so extended shall continue from year to year
79 until changed by said board of education.

80

For High School Purposes

81 For high school purposes, including junior high schools, vo-
82 cational schools and physical education schools, the said board
83 of education shall levy a rate sufficiently high to defray the
84 expenses for such high school purposes for the current fiscal
85 year, and shall divide the levy so made into a levy for main-
86 tenance fund purposes and a levy for teachers' fund pur-
87 poses.

88

For New Building and Improvement Fund Purposes

89 For new building and improvement fund purposes, for the
90 purchase of land and for the purpose of erecting and equip-
91 ping buildings for elementary and high school purposes, for
92 the purchase of furniture and apparatus, for rent and perma-
93 nent improvement of old buildings, a levy not to exceed twenty
94 cents. Where, however, an exigency exists for additional
95 housing, and the levy herein provided is not sufficient to pro-
96 vide the necessary funds an additional levy hereunder may be
97 laid not to exceed thirty cents, but the levy shall not be made
98 until the grounds showing the emergency shall be fully set
99 out in an order made and entered of record by the said board
100 of education and then submitted to and approved in writing
101 by the state superintendent of free schools and the state tax
102 commissioner.

103

For Library Fund Purposes

104 For maintenance of the public library under the control and
105 management of said board of education, including salaries for

106 librarian and assistants and all other expenses of managing
107 and operating said library, a levy of not to exceed three cents.

Sec. 3. Within three days after the said board of education
2 has laid the levies for the various funds as hereinbefore pro-
3 vided, it shall be the duty of the clerk of the said board to for-
4 ward a certified copy of the orders laying levies to the state
5 superintendent of free schools and the state tax commissioner,
6 and also to report the rate of levy for each fund to the officer
7 required by law to collect the levies laid by the said board of
8 education. The said collecting officer shall annually, in the
9 month of July, make settlement with the said board of educa-
10 tion, and account to it for all moneys which shall have come
11 into his hands within the previous year, or since his last settle-
12 ment with said board, from or on account of levies made by it,
13 and for all other moneys which shall have come into his hands
14 for school or public library purposes within such year, or since
15 his last settlement. And said collecting officer shall in such ac-
16 counting show from what source and on what account such
17 money was received by him, and the amounts paid out by him
18 for school and public library purposes, respectively.

Sec. 4. If the said board of education shall be of opinion that
2 the maximum rates of levy of taxes hereinbefore named, in sec-
3 tion two of this act, will not produce sufficient funds for the
4 current fiscal year to cover the expenditures for such year in
5 said school district, it may enter an order in its record book of
6 proceedings setting forth the purpose for which such additional
7 funds will be needed, the amount thereof for each purpose, and
8 the total thereof, the separate and aggregate amount of the tax-
9 able property on which it is authorized to levy taxes and the
10 rate of levy in cents on each one hundred dollars assessed valu-
11 ation of such property necessary to produce the additional
12 amount estimated to be needed; and in the same manner sub-
13 mit the question of such additional levy to the voters of the said
14 independent school district of Wheeling at an election which
15 may be held as provided in section ten of chapter one hundred
16 and twenty-six of the acts of one thousand nine hundred and
17 nineteen. If a majority of the votes cast on the question at
18 such election be in favor of such additional levy, the said board
19 of education shall have authority to make such additional levy,
20 but the same shall not exceed twenty cents on each one hundred
21 dollars assessed valuation of the taxable property in said inde-
22 pendent school district according to the last assessment thereof.

Sec. 5. Any funds derived from the levying of taxes under 2 and pursuant to the provisions of this act shall be expended for 3 the purposes for which levied and no other.

Sec. 6. It shall be unlawful for the said board of education 2 to expend any money or to incur any obligation or indebted- 3 ness which it is not expressly authorized by law to expend or 4 incur, nor shall the said board make any contract, express or 5 implied, the performance of which, in whole or in part, would 6 involve the expenditure of money in excess of funds legally at 7 its disposal, nor issue or authorize to be issued any certificate, 8 order or other evidence of indebtedness which cannot be paid 9 out of the levy for the current fiscal year, or out of the fund 10 against which it is issued. Nor shall said board of education 11 attempt to lay any levy the rate whereof shall exceed the rate 12 prescribed by law. Any indebtedness created, contract made or 13 order or draft issued in violation hereof, shall be void and of 14 no effect, and any money received thereon may be recovered 15 from the person receiving the same by said board of education.

Sec. 7. Any member, officer or agent of said board of educa- 2 tion who shall wilfully violate any of the provisions of this act 3 shall be subject to the penalties, both criminal and civil, im- 4 posed by section twelve of chapter one hundred and twenty-six 5 of the acts of one thousand nine hundred and nineteen, and pro- 6 ceedings against any such member, officer or agent may be in- 7 stituted and prosecuted by the persons and in the manner in 8 the said section specified.

Sec. 8. All acts and parts of acts relating to the independent 2 school district of Wheeling so far, and so far only, as they 3 conflict with the provisions of this act, are hereby repealed.

CHAPTER 110

(House Bill No. 327—By Mr. Trainer, by request)

AN ACT to amend and re-enact chapter seventy-four of the acts of the legislature of one thousand eight hundred and seventy-one, providing for the school district of Salem, Harrison and Doddridge counties, West Virginia.

[Passed March 31, 1925; in effect from passage, Approved by the Governor.]

Sec.	Sec.
1. Defining boundaries of school district of Salem.	10. Evening classes, etc.
2. Board of education constituted, how; tenure.	11. Board of education, a body corporate; powers and duties.
3. Commissioners, oath of.	12. Powers, continued.
4. Vacancies, how filled.	13. Salaries of teachers, etc.; tenure.
5. Meetings; quorum; organization.	14. Levies.
6. Salaries.	15. Taxes, how collected.
7. Provide dental and medical inspection.	16. Moneys, how paid out.
8. Attendance officers, duties of.	17. Tuition, where credited.
9. Transfer of pupils.	18. Board of education, powers, continued.
	19. Inconsistent laws repealed.

Be it enacted by the Legislature of West Virginia:

That the acts of the legislature of February eighteenth, one thousand eight hundred and seventy-one, creating the school district of Salem, Harrison and Doddridge counties of the aforesaid state be amended and re-enacted so as to read as follows:

Section 1. That the said school district of Salem comprises
 2 all the territory within the boundary, viz.: Beginning at the
 3 post north of the Baltimore and Ohio railroad right-of-way
 4 on what is known as the "old Adkinson line" and running
 5 south fifteen degrees east one thousand and eight feet; thence
 6 south fifty-one degrees thirty minutes west seven hundred and
 7 eighty-two feet to a hickory; thence south nine degrees thirty
 8 minutes west two hundred and seventy-eight feet to a post;
 9 thence south thirty-one degrees eight hundred and seventy-nine
 10 feet; thence south twenty-seven degrees thirty minutes east one
 11 hundred and eighty-eight feet to a stone; thence south twenty
 12 degrees thirty minutes west six hundred and seventy-one feet
 13 to a chestnut oak; thence south forty-four degrees forty-five
 14 minutes west three thousand two hundred and ninety-eight
 15 feet to a post; thence south twenty-four degrees west eight
 16 hundred and forty-seven feet to white oak; thence north
 17 eighty-one degrees west four hundred and fifty-nine feet;
 18 thence north eighty degrees west one thousand three hundred
 19 and sixty-nine feet to a gum; thence north forty-six degrees
 20 west nine hundred and forty feet; thence north seventy-eight
 21 degrees forty-five minutes west one thousand three hundred
 22 and forty feet to the Patterson fork road; thence north sixty-
 23 four degrees thirty minutes west eight hundred and eighty-five
 24 feet to a chestnut oak stump; thence north forty degrees west
 25 one hundred and fifty feet to a black oak; thence north forty-
 26 five degrees thirty minutes west three hundred and thirty-
 27 three feet to a red oak; thence north forty-seven degrees thirty

28 minutes west ninety-nine feet to a white oak snag ; thence north
29 sixty-three degrees fifteen minutes west six hundred and four-
30 teen feet to a black oak ; thence north forty-eight degrees
31 west five hundred and three feet ; thence south twenty-six
32 degrees west one thousand six hundred and ninety feet ;
33 thence north eighty-one degrees west fifty-one feet to hickory ;
34 thence north seventy-five degrees thirty minutes west one thou-
35 sand four hundred feet to a stone ; thence north one degree
36 fifteen minutes west nine hundred and seventy-four feet ;
37 thence north eighty-eight degrees forty-five minutes west two
38 hundred and eighty-four feet to a hickory ; thence south sev-
39 enty-six degrees west six hundred and forty feet to a chestnut
40 oak ; thence south sixty-one degrees west two hundred and sixty
41 feet to a chestnut oak ; thence south seventy degrees west six
42 hundred and thirty-six feet ; thence south eighty-nine degrees
43 west one hundred and seventy feet to a chestnut oak post ;
44 thence south twenty degrees forty-five minutes west one thou-
45 sand three hundred and ninety-nine feet to a chestnut oak ;
46 thence south sixty-eight degrees west four hundred and sev-
47 enty-one feet ; thence north seventy-six degrees west three
48 hundred and thirty feet ; thence north four degrees thirty
49 minutes east one thousand two hundred and one feet ; thence
50 north sixty-nine degrees west four hundred and thirty-nine
51 feet to a chestnut oak ; thence north sixty-seven degrees forty-
52 five minutes west nine hundred and four feet to a hickory ;
53 thence north seventy-seven degrees thirty minutes west four
54 hundred and forty-three feet ; thence north forty-two degrees
55 east eight hundred and forty-six feet to white oak ; thence south
56 seventy-five degrees forty-five minutes east three hundred and
57 sixty-seven feet ; thence north three degrees thirty minutes
58 east one thousand five hundred and ninety-seven feet to white
59 oak ; thence north forty-five degrees west seven hundred and sev-
60 enty-one feet to chestnut oak ; thence north seventy-three de-
61 grees west two hundred and ninety-six feet to post ; thence
62 north thirty-nine degrees thirty minutes west six hundred
63 and eighty-one feet to chestnut oak ; thence south seventy-six
64 degrees thirty minutes west eight hundred and eleven feet to
65 black oak ; thence north sixty-nine degrees west three hundred
66 and three feet to chestnut oak ; thence north fifty-one degrees
67 thirty minutes west two hundred and seventy-seven feet ;
68 thence north thirty-five degrees fifteen minutes west four
69 hundred and sixty-eight feet to white oak ; thence south sev-

70 enty-six degrees thirty minutes west one hundred and twenty-
71 eight feet; thence south eighty degrees thirty minutes west
72 five hundred and twenty-four feet to chestnut oak; thence
73 south sixty-two degrees thirty minutes west two hundred and
74 forty-eight feet; thence south thirty-eight degrees west seventy-
75 eight feet to chestnut oak; thence south twenty-four degrees
76 west two hundred and forty-one feet; thence south thirty-nine
77 degrees west one hundred and sixty feet to hickory; thence
78 south forty-nine degrees west two hundred and fifty feet to
79 north gate post; thence south eighty-eight degrees thirty
80 minutes west two hundred and fifty-nine feet to south bar
81 post; thence north seventy-seven degrees thirty minutes west
82 one hundred and ninety-four feet to chestnut oak stump;
83 thence north thirty-one degrees thirty minutes west four hun-
84 dred and seventy two feet; thence north thirty-six degrees
85 thirty minutes west two hundred and sixty feet; thence north
86 twenty-seven degrees fifteen minutes west two hundred and
87 seventy-eight feet to red oak; thence north forty-three degrees
88 east six hundred and seventy-six feet to jack oak; thence north
89 twenty degrees east two hundred and fifty-two feet; thence
90 north ten degrees thirty minutes east one hundred and eighty-
91 four feet; thence north twenty-two degrees west two hundred
92 and ninety-seven feet; thence north fifteen degrees thirty
93 minutes west six hundred and nine feet to hickory on knob by
94 water tank; thence north fifty-four degrees fifteen minutes
95 east eight hundred and forty-seven feet to chestnut oak;
96 thence north twenty-three degrees forty-five minutes east five
97 hundred and sixteen feet; thence north thirty-eight degrees
98 east three hundred and eighty-four feet; thence north seventy-
99 two degrees east two hundred and ninety-seven feet; thence
100 north fifty-two degrees forty-five minutes east one thousand
101 one hundred and seventy-three feet to apple tree; thence
102 south seventy-seven degrees east nine hundred and thirty-
103 three feet on ridge; thence south twenty-three degrees thirty
104 minutes east one hundred and seventy-eight feet; thence
105 south forty-three degrees east two hundred and seventy-four
106 feet; thence south forty-five degrees east two hundred and
107 seventy-four feet; thence south thirty-two degrees fifteen
108 minutes east two hundred and seventy-four feet; thence south
109 forty-three degrees east four hundred and eighty-eight feet;
110 thence south eighty-three degrees thirty minutes east one

111 hundred and seventy-nine feet to chestnut oak; thence north
112 eighty-seven degrees thirty minutes east four hundred and
113 eighty feet to gum; thence south sixty-six degrees east four
114 hundred and sixty-six feet to post; thence north fifty-eight
115 degrees thirty minutes east one thousand four hundred and
116 fifty-five feet to post; thence south eighty-two degrees thirty
117 minutes east five hundred and twenty-seven feet; thence south
118 eighty-three degrees forty-five minutes east five hundred and
119 ninety-eight feet to jack oak; thence south fifty-three degrees
120 thirty minutes east four hundred and six feet to white oak;
121 thence south twenty-eight degrees thirty minutes east four
122 hundred and twenty-six feet to walnut; thence south seven
123 degrees fifteen minutes east four hundred and seventy-one
124 feet to white oak; thence south seventy-five degrees fifty
125 minutes east one thousand two hundred and seventy feet to
126 post; thence south thirty degrees east five hundred and forty-
127 eight feet; thence south forty-seven degrees forty-five min-
128 utes east four hundred and thirty-seven feet; thence south
129 twenty-five degrees east five hundred and seven feet; thence
130 south twenty-five degrees east five hundred and seven feet;
131 thence north fifty-two degrees east two thousand eight hun-
132 dred and five feet; thence north twenty-six degrees thirty
133 minutes west three hundred and forty-five feet; thence north
134 sixty-two degrees forty-five minutes east two thousand eight
135 hundred and eleven feet to chestnut oak; thence south eighty-
136 nine degrees fifteen minutes east nine hundred and sixty-
137 seven feet to chestnut oak; thence north sixty-four degrees
138 thirty minutes east two hundred and ninety-two feet to
139 poplar; thence north eighty-five degrees east four hundred
140 and ninety-nine feet to post; thence south forty-nine degrees
141 thirty minutes east two hundred and twenty-three feet;
142 thence south fifty-eight degrees fifteen minutes east one thou-
143 sand two hundred and thirty-one feet; thence south twenty-
144 eight degrees forty-five minutes east one hundred and sixty-two
145 feet; thence south six degrees thirty minutes east three hundred
146 and sixty-one feet; thence south sixty-seven degrees east one
147 thousand one hundred and twenty-nine feet to poplar; thence
148 south seven degrees east six hundred and two feet; thence
149 south fourteen degrees east six hundred and seventy feet to
150 chestnut; thence south four degrees thirty minutes east seven
151 hundred and fifteen feet; thence south twenty-two degrees

152 thirty minutes east two hundred and sixty-five feet; thence
153 north seventy-seven degrees east one thousand and thirty-four
154 feet to beginning.

155 The foregoing which represents the survey of February,
156 one thousand nine hundred and nineteen, comprises the boun-
157 dary of territory lying in Harrison and Doddridge counties
158 included in the school district of Salem as created by the acts
159 of one thousand eight hundred and seventy-one, except such
160 adjustments as were made in Harrison county by the joint
161 action of the board of education of the school district of Salem
162 and the board of education of Ten Mile district in Harrison
163 county when the survey of February, one thousand nine
164 hundred and nineteen, was made and this said territory shall
165 constitute one district, hereafter to be known as the Salem
166 independent district.

Sec. 2. There shall be a board of education for said dis-
2 trict, consisting of three commissioners, one of whom shall be
3 president of said board as hereinafter provided, and all of
4 whom shall be freeholders and *bona fide* residents of the dis-
5 trict, and elected by the qualified voters of said district. The
6 members of the board, now in office, shall serve for the re-
7 mainder of the term for which elected or until their succes-
8 sors are elected and qualified and annually at the time of the
9 Salem city election, one commissioner shall be elected to suc-
10 ceed the outgoing commissioner, whose term of office shall be
11 three years from the first day of July following his election.

Sec. 3. Before entering upon the duties of office, newly
2 elected commissioner shall take the oath prescribed in section
3 five of article four of the state constitution, which oath shall
4 be filed with the secretary of the board.

Sec. 4. Vacancies in the membership of the board shall be
2 filled by the county superintendent until the next regular
3 election, but the commissioner elected to fill such vacancy shall
4 not assume the duties of office until the first of July following
5 said election.

Sec. 5. The board of education shall hold such meetings as
2 shall be necessary for the proper conduct of its business and
3 it shall fix the time and place for holding its regular meetings
4 by an order entered upon its minute book. A majority of the
5 members present shall constitute a quorum for the transac-
6 tion of business. Special meetings may be called by the presi-

7 dent, or by other members of the board, at any time, upon rea-
8 sonable notice given to all members of the board. At its first
9 meeting in July, each year, the board of education shall or-
10 ganize for the transaction of business for the ensuing year by
11 the election of one of its number as president and by the ap-
12 pointment of a secretary, who shall not be a member of the
13 board, and who shall perform the duties of said office as re-
14 quired by the state school law. Before entering upon the
15 duties of his office he shall take the oath prescribed by law.

Sec. 6. The members of the board of education and the
2 secretary shall each be paid for their services as provided in
3 the state school law.

Sec. 7. The board of education shall provide for proper
2 medical and dental inspection of pupils attending the schools
3 of the district and take any action necessary to protect said
4 pupils from contagious and infectious diseases, as directed by
5 the state school law.

Sec. 8. The board of education shall annually appoint one
2 or more attendance officers, who shall qualify as such and en-
3 force the provisions of the state school law regarding truancy
4 in the district.

Sec. 9. The board shall be governed by the provisions of
2 the state school law in regard to the matter of transferring
3 pupils to or from the district.

Sec. 10. The board shall have authority to establish and
2 maintain evening classes, part time day schools and vocational
3 schools, as provided in the state school law.

Sec. 11. The board of education shall be a corporation by
2 the name of "the board of education of Salem independent dis-
3 trict" in the counties of Harrison and Doddridge, and as such,
4 may sue and be sued, plead and be impleaded, contract and be
5 contracted with; and shall succeed and be subrogated to all
6 the rights of former boards of education of said district; and
7 may prosecute and maintain all suits and proceedings now
8 pending or which might have been brought and prosecuted in
9 the name of any such former board of education for the re-
10 covery of any money, or property, or damage to any property,
11 due to or vested in any former board, and shall so be liable in
12 its corporate capacity for all claims legally existing against
13 the board of education of which it is successor. Said board

14 shall, according to law, hold or dispose of any real estate or
15 personal property belonging to said corporation or its prede-
16 cessors, or that may hereafter come into its possession. Said
17 board shall seize and dispose of, according to law, and the intent
18 of the instrument conferring title, any gift, grant, devise or be-
19 quest. All school houses, school sites and other school property
20 belonging to the board of education and used for school pur-
21 poses, shall be exempt from execution or other process, and free
22 from any lien, or distress for taxes, or for county or state levies.

Sec. 12. The board of education of Salem independent dis-
2 trict shall exercise all the functions provided for boards of
3 education in the state school law with reference to holding and
4 disposing of school property, selecting school sites, building,
5 repairing, improving and furnishing school buildings, and in
6 the general oversight and control of the schools of the district.

Sec. 13. The board of education, at its first regular meeting
2 in May each year, shall fix the schedule of salaries to be paid
3 the superintendent, principals, supervisors, teachers and, as
4 far as practicable, all other employers of the district for the
5 ensuing year beginning the first of July following and at the
6 same meeting the superintendent shall be appointed for one
7 year from the first of July following. The principals, super-
8 visors, teachers and other employees may be selected for the
9 ensuing year on or after the foregoing date, but subsequent to
10 the appointment of the superintendent.

Sec. 14. The board of education shall, annually, in the
2 month of August as provided in the state school law, levy such
3 tax upon the taxable property of the district as will be suf-
4 ficient to keep all the schools of the district in operation for
5 nine months in the year but such levy for elementary school
6 purposes shall not exceed sixty cents on the one hundred dol-
7 lars valuation of the property of the district for the teachers'
8 fund and twenty cents on the one hundred dollars valuation for
9 the elementary maintenance fund.

Sec. 15. The taxes levied by the board of education shall
2 be collected by the sheriffs of Harrison and Doddridge coun-
3 ties at the same time and in the same manner as the state and
4 county taxes; and they shall credit the same to the proper fund
5 or funds. Each sheriff shall report in writing to the board,
6 monthly, and as otherwise required by said board, as to the

7 condition of the several funds. The respective sheriffs shall
8 be compensated for their services in the manner provided for
9 by the statute laws of the state of West Virginia and none
10 other.

Sec. 16. All money coming into the hands of the sheriffs
2 of the counties of Harrison and Doddridge, belonging to the
3 said Salem independent district school funds, shall be paid
4 out by them on orders from the board of education of the dis-
5 trict signed by the president and the secretary of the board and
6 countersigned by the county financial secretary.

Sec. 17. All money collected for tuition in the district shall
2 be deposited with the sheriff of Harrison county to the credit
3 of the fund decided upon by the board of education.

Sec. 18. The board of education shall have power and au-
2 thority to do all acts and things and make any provision it may
3 deem necessary for the educational welfare of Salem independ-
4 ent district, in order to take advantage of any state or federal
5 appropriation of funds for educational purposes which may
6 thereby be made available for the schools of said district, and
7 of any state or federal measure of any character enacted for
8 the advancement of education.

Sec. 19. All provisions of the general school law of the state,
2 and all acts and laws heretofore existing, which are in any
3 manner inconsistent with the provisions of this act, shall be
4 void within said school district; otherwise, the said general
5 school law shall remain in full force and effect in this district,
6 as elsewhere in this state.

All acts or parts of acts inconsistent or in conflict herewith
are hereby repealed.

CHAPTER 111

(House Bill No. 342—By Mr. Turley, by request)

AN ACT to validate the high school at Sharples, in Logan district
of Logan county, West Virginia and to authorize its mainte-
nance and support.

[Passed April 20, 1925; in effect from passage. Approved by the Governor.]

Sec. 1. Confirmation of high school at Sharples.		Sec. 2. Board of education to maintain and control high school.
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Be it enacted by the Legislature of West Virginia:

Section 1. The high school at Sharples in Logan district of 2 Logan county, West Virginia is hereby, in all respects, vali- 3 dated and confirmed.

Sec. 2. The board of education of said Logan district is 2 hereby authorized to maintain and control said high school, 3 in the same manner, and under the same limitations as are 4 provided for high schools established under section seventy- 5 eight of chapter forty-five of Barnes' code of West Virginia 6 of one thousand nine hundred and twenty-three.

CHAPTER 112

(House Bill No. 376—By Mr. Sehon)

AN ACT to amend and re-enact chapter thirty of the acts one thousand nine hundred and twenty-one of the Legislature of West Virginia, as relates to the school district of Huntington in the county of Cabell.

[Passed January 28, 1925; in effect from passage. Approved by the Governor.]

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| <p>Sec. 1. Defining boundaries of independent school district.</p> <p>2. Wayne assessor to make reports to Huntington board of education and county court of Cabell county.</p> | <p>Sec. 3. Sheriff of Wayne to report in same manner.</p> <p>4. Board of education of Huntington successor to board of education of Westmoreland.</p> <p>5. Inconsistent acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That chapter thirty of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, entitled: "An act to amend and re-enact chapter sixteen of the acts one thousand nine hundred and nine of the Legislature of West Virginia," be amended and re-enacted so as to change and enlarge the boundary limits of said school district so as to include territory within the county of Wayne, which additional territory includes the school district of Westmoreland, and such other amendments to said act as are necessary to put into full force and effect such consolidated territory under the management and operation of the board of education of said school district of Huntington, as follows:

Section 1. That part of the county of Cabell comprised within the limits fixed and described in section two of chapter sixteen of the acts of the legislature of West Virginia, session of one thousand nine hundred and nine as such limits are extended and enlarged by chapter sixty-seven of the acts of one thousand nine hundred and thirteen, and that part of the territory of Wayne county embraced within the limits of the Westmoreland school district, which Westmoreland school district is described as follows:

“Beginning at Wayne-Cabell county line at Fred Zillman orchard; thence along dividing ridge between Four Pole and Bob’s Branch to an intersection of the dividing ridge between Bob’s Branch and Haney’s Branch to the mouth of Bob’s Branch, leaving out the boy scout camp and Sam Ward property. All territory between the Ohio river on the north and Twelve Pole creek on the west is included in the new magisterial district to be known as Westmoreland magisterial district,” shall constitute, be and remain an independent school district.

Sec. 2. Wherein the assessor or other officer of Wayne county is required by law, before this act shall take effect, to make reports and returns, for the information and inspection of the board of education for said Westmoreland district, such officer or officers shall after this act takes effect, make such report or returns to the board of education of the school district of Huntington, and wherein such officer, or officers are now required to make any such report or returns, as pertains to said Westmoreland district, to the county court of Wayne county, such officer or officers shall make their said report or returns as pertains to or concerns the territory embraced within said Westmoreland school district, to the county court of Cabell county.

Sec. 3. Wherein the sheriff of Wayne county is now required to be the custodian of funds of, and to perform certain duties in relation to, the school district of Westmoreland, said sheriff shall after this act takes effect perform like services and all other duties required by law for like purposes under the supervision of the board of education of the school district of Huntington.

Sec. 4. As soon as this act shall become effective the board of education of the school district of Westmoreland shall immediately turn over to the board of education of the school district of Huntington, all funds, buildings, grounds and all other property at that time belonging to said school district of Westmoreland, which shall at the time this act takes effect and thereafter be the property of the school district of Huntington, and the schools of said district of Westmoreland shall then and thereafter be under the supervision and control of the board of education of the school district of Huntington.

Sec. 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAPTER 113

(House Bill No. 418—By Mr. Brewster, by request)

AN ACT to amend and re-enact sections two, three, fifteen and sixteen of chapter fifty-five of the acts of the legislature of one thousand eight hundred and ninety-five.

[Passed March 23, 1925; in effect from passage. Approved by the Governor.]

<p>Sec. 2. Board of education; powers; duties; tenure. 3. Precincts and elections; expenses.</p>		<p>Sec. 15. Meetings, estimate and levy. 16. Authority to levy; referendum, when; how taxes collected.</p>
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Be it enacted by the Legislature of West Virginia:

That sections two, three, fifteen and sixteen of chapter fifty-five of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-five be amended and re-enacted to read as follows:

Section 2. There shall be elected by the qualified voters of said district at an election to be held at the court house, in Weston, on Tuesday after the first Monday in November, one thousand eight hundred and ninety-six, three commissioners and every two years thereafter there shall be elected one commissioner, whose term of office shall commence the first day of July following his election and continue for six years, and until his successor is elected and qualified; except that one of the commissioners elected in the year one thousand

10 eight hundred and ninety-six shall serve only four years and
11 one other only two years, the ballot designating the term of
12 service of each member. The said commissioners shall con-
13 stitute a public corporation to be denominated "board of
14 education of Weston district," and as such may sue and be
15 sued, plead and be impleaded, contract and be contracted with
16 and shall also adopt and have a common seal. Said board
17 shall, according to law, lease, purchase, hold and dispose of
18 any real estate or personal property belonging to said corpora-
19 tion or its predecessors, or that may hereafter be owned by
20 it or come into its possession.

Sec. 3. The board shall have the power by order to divide
2 the district into voting precincts and to designate a polling
3 place in each precinct, and from time to time as the public
4 convenience may require, to change the precinct lines and
5 polling places. No such order shall be made within thirty
6 days prior to any election at which a commissioner is to be
7 elected, and of every such order notice shall be given to the
8 public by the insertion thereof for at least two successive weeks
9 in two newspapers of opposite politics published in the city
10 of Weston. Commissioners of election and clerks for each
11 polling place to conduct all district elections shall be appointed
12 by the board, and shall possess the qualifications and perform
13 the duties usually required of such election officials. Unless
14 the board shall by order otherwise prescribe, no registration
15 of voters shall be required to be made for any regular or
16 special district election for whatever purpose held. The
17 commissioners of election shall certify the result of every
18 election to the board. The board shall issue a certificate of
19 election to the candidate for commissioner securing the greatest
20 number of votes within five days after his election, and in
21 case of a tie shall cast the deciding vote as between candidates,
22 and shall hear and decide all contests growing out of district
23 elections. All necessary expenses for conducting district elec-
24 tions shall be paid by the board out of the building fund of
25 the district.

Sec. 15. It shall be the duty of the board annually to hold
2 meetings at such times as are prescribed by general law for the
3 purpose of making up estimates of expenditures and of laying
4 levies for the various funds created or authorized by law in

5 order to keep the schools of the district in session at least eight
6 months in the year.

Sec. 16. Subject to the limitations as to amount prescribed
2 by general law, the board shall be authorized to levy taxes
3 each year sufficient, without other moneys available, to provide
4 for the estimated expenditures for such year from each fund;
5 and it shall not be required to submit the question of laying
6 any such levy to a vote of the people, except that no levy for
7 the payment of any bonded indebtedness which may hereafter
8 be created or interest thereon shall be laid unless previously
9 authorized by vote of the people. The taxes levied by the
10 board shall be collected in the same manner as other school
11 taxes are collected, and when so levied shall operate as a lien
12 on the various species of property included in the assessment
13 for the year for which the levy is made to the same extent
14 that tax levies for other public purposes so operate.

CHAPTER 114

(House Bill No. 510—By Mr. Lockhart)

AN ACT authorizing the board of education of the independent school district of Henry in the county of Clay and the state of West Virginia to lay a levy for the purpose of building and equipping a school house in said district.

[Passed April 20, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Levy for building and equipping school house authorized.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of the independent school district of Henry in the county of Clay in this state, for the sole and exclusive purpose of erecting and equipping a school-house therein, is hereby authorized to lay a levy annually for a period not to exceed five years, of thirty cents on the one hundred dollars assessed valuation of the property in said district, in addition to the levies now authorized by law.

CHAPTER 115

(House Bill No. 659—By Mr. Brewster)

AN ACT to amend and re-enact sections two, three and four of chapter forty-four of the acts of the legislature one thousand eight hundred and eighty-two, creating the independent free school district of Jane Lew.

[Passed March 20, 1925; in effect from passage. Approved by the Governor.]

Sec.

2. Board of education, a corporation; duties; tenure; vacancies.
3. Elections, compensation of officers of; ballots.

Sec.

4. Meetings; quorum; board of education, powers of; levies and administration.

Be it enacted by the Legislature of West Virginia:

That sections two, three and four of the acts of the legislature of one thousand eight hundred and eighty-two, creating the independent free school district of Jane Lew be, and the same are hereby amended and re-enacted so as to read as follows:

Section 2. The board of education of said independent free school district shall consist of a president and two commissioners, who shall be elected by the qualified voters resident in said district; and they shall be a body corporate in law, styled "board of education of the independent free school district of Jane Lew," and by that name may sue and be sued, plead and be impleaded, purchase and hold as much real estate and personal property as may be necessary for the purposes and provisions of this act, and without any transfer or conveyance they shall be deemed the owners of all real estate and personal property within the territory aforesaid, and they shall have all the powers, perform all the duties and be subject to all the liabilities both of boards of education and trustees under the general school law, except as qualified or enlarged by the provisions of this act. They shall serve for a term of three years except as limited herein, and until their successors are elected and qualified as provided by law. The members of said board of education who are now acting as members thereof shall continue to serve as such until their successors shall have been elected and qualified according to law; and at the municipal election to be held for the town of Jane Lew in January, one thousand nine hundred and twenty-six a new board shall be elected, one of whom shall serve for one year, one for two years and one for three years, and one member of the board shall be elected each year there-

25 after at such municipal election. The president shall be elected
26 at such municipal election in January, one thousand nine hun-
27 dred and twenty-six and every three years thereafter. The
28 term of office of said president and commissioners shall begin on
29 the first day of July next after their election. Nothing herein
30 contained shall be so construed as to prohibit the re-election
31 and eligibility of any member of such board for two or more
32 terms. Vacancies in the board shall be filled for the unexpired
33 term by appointment by the board.

Sec. 3. The election for the purpose of electing officers under
2 this act shall be held on the day provided for the annual muni-
3 cipal election for the incorporated town of Jane Lew, at the
4 place designated by the common council of said town of Jane
5 Lew, and by the commissioners duly appointed to conduct said
6 municipal election; and for so conducting the said election the
7 board of education shall pay out of the building fund of said
8 district to the said town of Jane Lew, annually, the sum of
9 twelve dollars. Separate and distinct ballots shall be used in
10 conducting said election and all qualified voters residing in the
11 territory described in section one of this act shall be entitled to
12 vote thereat. All elections held in pursuance of this act shall
13 be held in compliance with the general election laws of this state,
14 except as herein otherwise provided.

Sec. 4 The board of education of said independent free
2 school district of Jane Lew shall hold stated meetings at such
3 times and places as they may appoint, not less than two members
4 being required to constitute a quorum. Special meetings may
5 be called by the president when he shall deem it necessary or
6 at the request of the other two members, by the secretary, but
7 no special meeting shall be held unless all the members have
8 notice of the time and place of holding same. The concurrence
9 of two members of the board shall be required to elect teachers
10 and to decide on questions involving expenditures of public
11 money, or for any other business whatever.

12 Said board of education shall have power to lay levies in the
13 same manner as provided in the case of boards of education of
14 districts, but if in the judgment of said board it will be advan-
15 tageous to the interest of education in such district to do so
16 they may apply all money at their disposal, which may be levied
17 by them either entirely to the employment and payment of
18 teachers and the incidental expenses necessary to carry on and

19 conduct school, including fuel and other things necessary for
20 such school, or entirely to building purposes, or partly for
21 either; but there shall be a school taught in said district for
22 at least eight months in each year, and the board of education
23 may provide for a longer period, without resorting to a vote
24 of the people residing therein. Except as herein otherwise pro-
25 vided the general school law of this state shall be and remain in
26 full force and effect in said independent free school district.

CHAPTER 116

(Senate Bill No. 21—By Mr. Kee)

AN ACT to amend and re-enact section one-i of chapter one hundred and twelve, Barnes' code of West Virginia, in so far as the same relates to the holding of the terms of the circuit court for the county of Mercer, and providing for an additional term of circuit court to be held in said county.

[Passed April 14, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.
1-i Terms of circuit court in Mercer
county; repealing inconsistent
acts.

Be it enacted by the Legislature of West Virginia:

That section one-i, chapter one hundred and twelve of Barnes' code of West Virginia, in so far as the same relates to the holding of terms of the circuit court for the county of Mercer, be amended and re-enacted so as to read as follows:

Section 1-i. For the county of Mercer, on the second Monday 2 in March, the second Monday in May, the second Monday in 3 August and the fourth Monday in November.

All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 117

(Senate Bill No. 57—By Mr. Byrer)

AN ACT to re-form, alter and modify the county court of Barbour county, under the twenty-ninth section of the eighth article of the constitution of West Virginia.

[Passed April 8, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Division of Barbour county into districts; present districts remain until changed; alteration of county court; commissioners; qualifications; salary.
2. Election of commissioners; terms; designation of terms.
3. Not inconsistent with chapter 39

Sec.

- of code.
4. Meeting.
5. Submission to voters; election; notice; ballots.
6. Conduct of election.
7. Void unless ratified by popular vote.

Be it enacted by the Legislature of West Virginia:

Section 1. The county of Barbour shall be laid off into eight districts as nearly equal as may be in territory and population. The present division of said county into magisterial districts, namely, Barker, Glade, Cove, Pleasant, Elk, Union, Valley and Philippi, shall constitute such districts until changed by the county court, hereinafter mentioned, and according to law. The county court established in the said county, by the eighth article of the constitution of this state, is hereby reformed, altered and modified, that is to say:

The county court of the county of Barbour shall be composed of eight commissioners, to be elected, in each district, above mentioned, by the qualified voters therein, that is to say, the voters of each district shall elect one commissioner who shall be a resident of such district. Should any commissioner remove from the district of which he was a resident at the time of his election, his office shall thereby become vacated. The office of commissioner and that of justice of the peace, constable or overseer of roads shall be deemed incompatible. Each commissioner shall receive for his services the compensation prescribed by law for commissioners of the county court, for each day he shall attend the court, to be paid out of the county treasury.

Sec. 2. At the general election to be held in the year one thousand nine hundred and twenty-six, and at each succeeding general election, there shall be elected by the voters of said districts one commissioner, whose term of office shall commence on the first day of January next after his election, and continue for four years. *Provided*, that at the first meeting of said commissioners they shall designate by lot or otherwise, in such manner as they may determine, one-half of their number who shall hold office for the term of two years, so that one-half of the entire number of said commissioners shall be elected every two years.

12 And, *provided further*, that the districts in which the pres-
13 ent members of the county court reside, shall elect no such
14 commissioner until the general election immediately preceding
15 the first day of January when the respective term of such com-
16 missioner shall expire, and the present members of said county
17 court shall be and remain the members of the court from the
18 districts in which they respectively reside, for and during the
19 period for which they were respectively elected.

Sec. 3. So far as they are not inconsistent herewith, all the
2 provisions of chapter thirty-nine of the code of West Virginia,
3 and all other provisions of law respecting county courts gen-
4 erally, the commissioners composing such courts, and the clerks
5 of such courts, shall be applicable to the county court herein
6 provided for, and to the commissioners composing the same,
7 and the clerk of the county court of Barbour county, and his
8 successor shall be the clerk of the county court herein provided.
9 A majority of such commissioners shall constitute a quorum
10 for the transaction of official business.

Sec. 4. The first meeting of the county court herein pro-
2 vided, shall be held on the first Monday in January, in the year
3 one thousand nine hundred and twenty-seven, or as soon there-
4 after as a majority of the commissioners of said court may
5 assemble for the purpose, at which time, and annually there-
6 after, at their first meeting in each year, or as soon thereafter
7 as practicable, they shall elect one of their number president
8 of the court.

Sec. 5. At the general election in the year one thousand
2 nine hundred and twenty-six the question of the adoption of
3 the system provided for in this act shall be submitted to the
4 voters of the county of Barbour, voting at such election.
5 Notice of such election shall be given by the publication of this
6 act in each of the newspapers published in said county, once in
7 each week, for four successive weeks next preceding said elec-
8 tion. The tickets for the vote on such question shall be fur-
9 nished by the county court, and shall have printed thereon,
10 "for modification of county court," and "against modification
11 of county court," and the said ballot shall otherwise conform
12 to the requirements of chapter three of the code of West Vir-
13 ginia respecting ballots to be voted at a general election, but
14 the said ballot shall be separate from the ballots voted at such
15 general election aforesaid.

Sec. 6. Such election, at each place of voting in said county, shall be superintended, conducted and returned by the same officers, at the same time, and in the same manner as the election of members of the legislature is superintended, conducted and returned, and the result of each place of voting shall be certified and returned to the county court now in existence in Barbour county. Said court shall convene in special session as a board of canvassers, and do and perform all acts and things respecting the said election required of them by law, with relation to elections by the people, so far as applicable thereto.

Sec. 7. If a majority of the votes cast at said election be for modification of the county court, then this act shall be and remain in full force and effect; but if a majority of such vote be against modification of county court, then this act shall be of no further force or effect.

CHAPTER 118

(Senate Bill No. 100—By Mr. Suddarth)

AN ACT to provide for the payment to the prosecuting attorney of Taylor county for assistants and other expenses.

[Passed April 17, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Assistant prosecuting attorneys; salary; other expenses.

Be it enacted by the Legislature of West Virginia:

That the prosecuting attorney of Taylor county be allowed certain additional compensation for the employment of assistants, and other expenses in connection with his office.

Section 1. That there be paid out of the county treasury of Taylor county to the prosecuting attorney of such county, in addition to the other provisions made by law for the support of such office, the sum of fifty dollars per month during the years one thousand nine hundred and twenty-five, one thousand nine hundred and twenty-six, one thousand nine hundred and twenty-seven, and one thousand nine hundred and twenty-eight, for the employment of assistants, and other expenses connected with the conduct of such office.

CHAPTER 119

(Senate Bill No. 273—By Mr. Hugus)

AN ACT to authorize the prosecuting attorneys of Ohio and Brooke counties to employ the services of a court reporter or stenographer for the purpose of taking and transcribing statements and testimony given at inquests, autopsies and other preliminary hearings in criminal matters.

[Passed March 23, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.	1. Prosecuting attorney authorized to employ court reporter or steno-	grapher; duties of the same; compensation.
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Be it enacted by the Legislature of West Virginia:

That the prosecuting attorneys of Ohio county and Brooke county be authorized to employ reporters or stenographers for service at inquests, autopsies and preliminary hearings in criminal matters, and to provide compensation for the same.

Section 1. The prosecuting attorneys of Ohio and Brooke 2 counties are authorized to employ the services of a court reporter 3 or stenographer for the purpose of taking and transcribing 4 statements and testimony given at inquests, autopsies and other 5 preliminary hearings in criminal matters. Such reporter or 6 stenographer shall be paid compensation at the usual rate out 7 of the county treasury upon the presentation of itemized state- 8 ments approved by the prosecuting attorney.

CHAPTER 120

(Senate Bill No. 335—By Mr. Hugus)

AN ACT to amend and re-enact chapter seven of the acts of the regular session of one thousand eight hundred and ninety-three of the legislature, entitled "An act to establish a criminal court in the county of Ohio," passed February sixteenth, one thousand eight hundred and ninety-three, as amended and re-enacted by chapter twenty-seven of the acts of the legislature, passed February twenty, one thousand eight hundred and ninety-nine, and further amended by the acts of the legislature of one thousand nine hundred and eight, chapter seven, and changing the name of said court to "The Intermediate

Court of Ohio county," and enlarging and extending the power and jurisdiction of said court, and the circuit court of Ohio county.

[Passed April 17, 1925; in effect 90 days from passage. Became a law without approval of the Governor.]

Sec.	Sec.
1. Establish court of limited jurisdiction.	17. Docket appeals, writs of error or supercedens in circuit court; procedure to supreme court of appeals.
2. Jurisdiction of the court.	18. Rejection of appeals; procedure.
3. Election of judge.	19. Appeals tried in circuit court; duty of clerk; to supreme court of appeals.
4. Trial of cases; proceedings, civil and criminal.	20. Appeals from justice of the peace or police judge.
5. Jurisdiction presumed.	21. Contest in election of judge.
6. Contempt.	22. Vacancies; how filled.
7. Record book and stationery; credit of records.	23. Removal of judge.
8. Circuit clerk <i>ex-officio</i> clerk; duties of clerk and sheriff.	24. Taxing costs.
9. Compensation of judge.	25. General laws to apply.
10. Terms of court.	26. Arrests, commitments and bail.
11. Place of holding court.	27. Grant writs of <i>habeas corpus</i> .
12. Sheriffs to execute processes.	28. Prosecuting attorney.
13. Grand juries; law applicable; grand and petit juries; how chosen and empaneled; jury commissioner.	29. Jails and jailers.
14. Disqualification of judge; other statutes to apply; cases certified to circuit court, when; proceedings in transferred cases; recognizances; election of special judge; change of venue.	30. West Virginia reports and bound acts of the legislature to be furnished.
15. Appeals; writs of error and supercedens; concurrent jurisdiction with circuit court; appeals in other cases.	31. Rules; same as circuit court where not otherwise provided.
16. Who may appeal; method of procedure.	32. Judgments; liens; executions.
	33. Attachments.
	34. Appeals may be transferred by circuit court from justices of the peace, and other civil and criminal cases pending now or hereafter.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the acts of the legislature one thousand eight hundred and ninety-three, passed February sixteenth, one thousand eight hundred and ninety-three, entitled "An act to establish a criminal court in the county of Ohio," as amended and re-enacted by chapter twenty-seven of the acts of the legislature of one thousand eight hundred and ninety-nine, and further amended by the acts of the legislature of one thousand nine hundred and eight, chapter seven, be amended and re-enacted so as to read as follows:

Section 1. That the court of limited jurisdiction heretofore established in and for the county of Ohio, and known as the criminal court of Ohio county, shall be continued under the name of "The Intermediate Court of Ohio County."

Sec. 2. The said court shall have jurisdiction within the county of Ohio concurrent with the circuit court of said county, of all felonies, misdemeanors and offenses committed within the said county; and also original jurisdiction of all civil actions at law including motions for judgment under the provisions of section six of chapter one hundred and twenty-one of the West

7 Virginia code, where the amount or value in controversy, exclu-
8 sive of interest and costs, exceeds fifty dollars, and does not ex-
9 ceed five hundred dollars; and of all unlawful detainer cases,
10 and also jurisdiction of appeals from the judgments of the jus-
11 tices of said county when such appeals shall lie to said court in
12 the same manner and under the same regulations as provided in
13 the general law for appeals from justices; and the court shall
14 also have jurisdiction concurrent with the circuit court of said
15 county as to the supervision and control of all proceedings
16 before justices of said county, or the mayor or police judge or
17 police court of any incorporated city, town or village of said
18 county by mandamus, prohibition and *certiorari*; said interme-
19 diate court shall also have jurisdiction concurrent with the said
20 circuit court, of appeals from the police judge or the police
21 court of the city of Wheeling in said county.

Sec. 3. The judge of said court elected at the general elec-
2 tion held in this state on the Tuesday after the first Monday in
3 November, one thousand nine hundred and twenty-four, shall
4 hold his office for the term of six years, and until his successor
5 is duly elected and qualified; and there shall at the general
6 election in this state to be held on the Tuesday after the first
7 Monday in November, one thousand nine hundred and thirty,
8 and every six years thereafter, be elected by the legal voters of
9 said county, a judge of the intermediate court of Ohio county,
10 who shall be a resident member of the bar of said county, who
11 shall preside over the said court for the term of six years, from
12 the first day of January succeeding said election, and shall be,
13 except as to his term of office and jurisdiction, subject to the
14 laws governing circuit judges.

Sec. 4. The power and jurisdiction conferred by law upon
2 the circuit courts in the trial of cases and proceedings, both
3 civil and criminal, and the modes and procedures authorized
4 therein within the county of Ohio are hereby conferred upon
5 and shall be exercised by the said intermediate court of Ohio
6 county in respect to all cases, matters and proceedings of which
7 the said last named court is given jurisdiction by this act, and
8 the judge of said intermediate court shall have the same pow-
9 ers in vacation as are now or may hereafter be conferred upon
10 the judge of the circuit court of Ohio county in respect to
11 all cases, matters and proceedings within the jurisdiction of said
12 intermediate court.

Sec. 5. It shall not be necessary in any case or proceeding
2 in said intermediate court that the facts authorizing it to take
3 jurisdiction of the case or proceeding shall be set forth upon
4 the record, but jurisdiction shall be presumed unless the con-
5 trary plainly appears from the record.

Sec. 6. The said intermediate court shall have the same pow-
2 ers to punish for contempt as are vested in the circuit court.

Sec. 7. The board of commissioners of the county of Ohio
2 shall provide all record books and other books and stationery
3 that may be necessary, and likewise a seal for said intermediate
4 court. Full faith and credit shall be given to the records of
5 said court and to the certificate of its judge or clerk, whether
6 the seal of the court be affixed thereto or not, in like manner and
7 with like effect as if the same were records of the circuit court
8 or certificates of the judge or clerk of the circuit court similarly
9 authenticated.

Sec. 8. The clerk of the circuit court of Ohio county shall be
2 *ex-officio* clerk of said intermediate court and perform the duties
3 thereof; and in the discharge of his duties as clerk of the inter-
4 mediate court, he shall be subject to all statutes relating to the
5 clerk of the circuit court. All process, rules and orders of said
6 court in the exercise of its jurisdiction shall be signed by the
7 clerk thereof, and be directed to the sheriffs of the proper coun-
8 ties wherein the same are to be executed, and they shall be exe-
9 cuted in like manner and with the same effect as process issuing
10 from the circuit court of said county.

Sec. 9. The said judge shall for his services receive four
2 thousand eight hundred dollars per annum to be paid out of the
3 county treasury of said county of Ohio.

Sec. 10. There shall be three terms of said court held in each
2 year, commencing on the second Monday in February, the third
3 Monday in May, and the first Monday in October. Adjourned
4 and special terms of said court may be called and held as pro-
5 vided for special and adjourned terms of the circuit court.

Sec. 11. The said terms of said court shall be held in Wheel-
2 ing in said county of Ohio at the court house thereof.

Sec. 12. The sheriff of Ohio county and the sheriffs of the
2 several counties of the state shall by themselves or their depu-
3 ties execute all process of said court, or issued by the clerk
4 thereof, directed to them respectively, and all process emanat-
5 ing from said court, or issued by the clerk thereof, shall be

6 directed to and executed by them in the same manner as is
7 provided by law as to process issuing from the circuit court or
8 its clerk; and the sheriff of Ohio county shall perform the same
9 duties and services for the intermediate court of Ohio county
10 as he now by law is required to perform for the circuit court of
11 said county; and in the execution of the process, rules and
12 orders of said court the said officers shall have the same power
13 and rights, be subject to the same liabilities, govern themselves
14 by the same rules and principles of law and the statutes of the
15 state, and be entitled to the same fees as though the process
16 issued from the circuit court of said county.

Sec. 13. The said court shall impanel a grand jury at each
2 term thereof, and said court, or the judge thereof, may in his
3 discretion, order a grand jury to be drawn or summoned to
4 attend at any special or adjourned term of said court, or at
5 any other time when in his opinion it is proper to do so. Such
6 grand jury may consider any offense against the laws commit-
7 ted within said county of Ohio, whether the same shall have
8 been committed before the next preceding term of the court or
9 not, and whether the accused shall have been held for trial or
10 not prior to the next preceding regular term, and all the pro-
11 visions of chapter one hundred and fifty-seven of the code of
12 West Virginia, in regard to grand juries in the circuit court
13 shall apply, so far as applicable, to grand juries in said inter-
14 mediate court. The grand and petit juries serving in said court
15 shall be chosen and impaneled in the same manner as they are
16 chosen and impaneled by law in the circuit court, and shall re-
17 ceive the same compensation as said jurors in the circuit court.
18 *Provided*, that the jury commissioners of the circuit court of
19 Ohio county and their successors in office at the time this act
20 becomes effective shall be *ex-officio* the jury commissioners of
21 this court, and all petit juries for this court shall be selected
22 from the same list and box from which petit jurors for the said
23 circuit court are selected, and in the manner prescribed by
24 chapter one hundred and sixteen of the code; except so far as
25 otherwise provided in section twenty-one of chapter one hun-
26 dred and sixteen of the code.

Sec. 14. The judge of said court shall be subject to the pro-
2 visions of section nine, chapter one hundred and twelve of the
3 code, relating to the disqualifications of judges. If the judge
4 of said court cannot properly preside at the hearing of any

5 cause pending therein, said cause shall be certified to the circuit
6 court, and the original papers, together with a copy of the
7 orders of the intermediate court, shall be filed in the circuit
8 court of said county, and the cause shall be docketed therein
9 and proceeded with as though the cause had originally been
10 brought and the prior proceedings had in the circuit court to
11 which it was transferred; and the said intermediate court may
12 in its discretion take such recognizances from the defendants in
13 a bailable case, and from the witnesses for the state, as it may
14 deem proper, for their appearance before said court; *provided,*
15 *however,* that when for any cause the judge of said intermediate
16 court is disqualified or is incapable of acting, or is absent, a
17 special judge may be elected in the same manner as a special
18 judge of the circuit court, and governed in all respects, as far
19 as applicable by the laws relating to a special judge of the cir-
20 cuit court, and shall be allowed fifteen dollars a day to be paid
21 out of the county treasury; and a change of venue of any case
22 pending in said intermediate court may be ordered as provided
23 in chapter one hundred and fifty-nine of the code of West Vir-
24 ginia.

Sec. 15. Appeals may be allowed and writs of error and
2 supersedeas awarded to the final judgments, and orders of said
3 court by the circuit court of said county, or the judge thereof
4 in vacation, in all matters in which the circuit court has con-
5 current jurisdiction with said intermediate court, except that,
6 in civil cases, the matter in controversy, exclusive of costs, must
7 be greater in value or amount than one hundred dollars.

8 Appeals shall also be in the following cases:

9 (1.) In any case where there is a judgment or order quash-
10 ing or abating or refusing to quash or abate an attachment.

11 (2.) In any civil case where there is an order granting a new
12 trial. And in such cases an appeal or writ of error may be
13 taken from the order without waiting for the new trial to be
14 had.

15 (3.) In criminal cases where there has been a conviction. In
16 cases relating to the public revenue, the right of appeal or writ
17 of error shall belong to the state as well as to the defendant.

18 (4.) Any question arising upon the sufficiency of a summons
19 or return of service, or challenge of the sufficiency of a pleading
20 or indictment in any case within the appellate jurisdiction of
21 the circuit court may, in the discretion of the said intermediate
22 court, and shall, on the joint application of the parties to the

23 action or proceeding, in beneficial interest, be certified by said
24 intermediate court to the circuit court of Ohio county, or one
25 of the judges thereof in vacation, for decision, which decision
26 may be rendered in vacation as well as in term time, and fur-
27 ther proceedings in the case stayed until such question shall
28 have been decided and the decision thereof certified back. The
29 forms of the certificates of such questions, as well as the time
30 and manner of the hearing and notice thereof, and the portion
31 of the record to be sent up, shall be as prescribed in general
32 rules promulgated by the circuit court of Ohio county; but
33 such hearings shall have precedence over those arising upon
34 appeal and writs of error from said intermediate court. Entry
35 of such certificate, or the fact that it has been made, upon the
36 record of the case in the said intermediate court, shall be suf-
37 ficient notice to the parties of the pendency of the question in
38 the circuit court of Ohio county.

Sec. 16. Any person who is a party to any such controversy
2 wishing to obtain an appeal, writ of error or supersedeas, in
3 the cases named in the fifteenth section of this act, may present
4 to the circuit court of Ohio county, or a judge thereof in vaca-
5 tion, a petition therefor, and chapter one hundred and thirty-
6 five of the code of West Virginia, concerning appeals to the
7 supreme court of appeals shall, so far as applicable, govern the
8 proceedings of such appeal, writ of error or supersedeas, as to
9 the duties of the petitioner, the said court and clerk thereof;
10 *provided, however*, that such petition and appeal and writ of
11 error shall be heard and finally determined upon the original
12 papers in said cause, and the orders and decrees therein in lieu
13 of a transcript thereof; *provided, however*, no such appeal, writ
14 of error or supersedeas shall be allowed to the judgment or
15 order of said intermediate court rendered in a civil case, nor
16 upon any judgment on appeal from a judgment of a justice of
17 said county, or judgment of the mayor of any incorporated city,
18 town, or village in said county, unless the petition therefor be
19 presented within two months from the date of such judgment
20 or order; nor from the judgment or order of said intermediate
21 court rendered in any other criminal case unless the petition
22 therefor be presented within four months from the date of such
23 judgment or order; and, *provided, further*, that the judge of a
24 circuit court may on the joint application of the parties to the
25 suit, hear any appeal, writ of error or supersedeas without the

26 preparation of a formal petition therefor, or the preparation of
27 transcript of records, etc., as required for appeals to supreme
28 court of appeals, and enter final judgment or order on any such
29 appeal, writ of error or supersedeas.

Sec. 17. Every appeal, writ of error or supersedeas from
2 said court shall be docketed in the circuit court of Ohio county,
3 and shall be proceeded in, in the same manner as appeals, writs
4 of error or supersedeas are proceeded in, heard and determined
5 in the supreme court of appeals, except as provided in section
6 sixteen of this act.

Sec. 18. In a case wherein the appeal, writ of error or super-
2 sedeas is to the circuit court and the court or judge thereof
3 deems the judgment or order plainly right, and rejects it on
4 this ground, if the order of rejection so state, no further pe-
5 tition shall afterwards be presented for the same purpose, but
6 the petition and order of rejection with the transcript of the
7 record may be presented to the supreme court of appeals, or
8 judge thereof in vacation, for an appeal from said order of re-
9 jection; if the matter is one of which said supreme court of ap-
10 peals has jurisdiction and, if allowed, the same proceeding
11 may be had thereon as if the same was a petition originally
12 from the circuit court of said county to the supreme court of
13 appeals.

Sec. 19. The said circuit court, where an appeal, writ of
2 error or supersedeas has been allowed by the said court or the
3 judge thereof in vacation shall, upon the hearing thereof, affirm
4 said judgment or order if there be no error therein prejudicial
5 to the appellant, or reverse the same in whole or in part if
6 erroneous, and the circuit court may retain the case for trial or
7 remand the same back to said intermediate court to be further
8 proceeded in and finally determined. And the clerk of said cir-
9 cuit court shall, as soon as practicable, transmit the decision of
10 said circuit court to the clerk of said intermediate court. *Pro-*
11 *vided, however,* that any party feeling himself aggrieved by
12 such order of the circuit court, may, by appeal or writ of error
13 have such action reviewed by the supreme court of appeals.

Sec. 20. Every person sentenced to imprisonment by the
2 judgment of a justice, or the judgment of the mayor of any in-
3 corporated city, town or village, in said county, or by the police
4 court or the judge thereof of the said city of Wheeling; or to
5 the payment of a fine of ten dollars or more, shall be allowed an

6 appeal, as provided in section two hundred and thirty of chap-
7 ter fifty of the code of West Virginia, to the intermediate court
8 of said county, concurrent with the circuit court of said county,
9 and all the provisions of said section shall apply to said appeal
10 and govern the proceedings thereon, and the same shall be pro-
11 ceeded in, heard and determined, and with the like effect, as is
12 provided in said section two hundred and thirty of chapter fifty
13 of the code.

Sec. 21. If the office of judge of said intermediate court be
2 contested, the contest shall be heard and determined in the
3 same manner as the election of judges of the circuit courts are
4 determined.

Sec. 22. If from any cause the office of judge of said court
2 shall become vacant, said vacancy shall be filled in the same
3 manner as vacancies in the supreme court of appeals.

Sec. 23. The judge of said court may be removed from
2 office for the causes and in the same manner as is prescribed by
3 law for the removal of judges of the circuit courts.

Sec. 24. In the taxation of costs in said court the clerk
2 and court shall be governed by the same rules and provisions
3 of law as are provided in the circuit court.

Sec. 25. Chapter one hundred and fourteen of the code of
2 West Virginia, relating to courts in general shall apply to the
3 intermediate court of Ohio county, in the same manner and
4 to the same extent that it does to the circuit courts of the
5 state.

Sec. 26. Chapter one hundred and fifty-six of the code of
2 West Virginia relating to arrest, commitment and bail
3 shall apply to the intermediate court of Ohio county, and to
4 the judge thereof in vacation, in the same manner and to the
5 same extent that it does to the circuit court of Ohio county,
6 or the judge thereof in vacation, and the same powers may
7 be exercised within the county of Ohio by said court, and
8 judge thereof in vacation, concurrent with the circuit court
9 of said county, as provided for in said chapter. All examina-
10 tions, recognizances, warrants of commitment and certificates
11 or other proceedings, made returnable to the circuit court of
12 Ohio county, under the provisions of said chapter one hun-
13 dred and fifty-six, may be made returnable likewise to the
14 said intermediate court of Ohio county concurrent with the
15 circuit court of said county.

Sec. 27. The intermediate court of Ohio county and the
2 judge thereof in vacation shall, concurrently with the supreme
3 court of appeals, the circuit court of said county, or any judge
4 of either of said courts in vacation, grant the writ of *habeas*
5 *corpus*, as provided in chapter one hundred and eleven of the
6 code of West Virginia, and all the provisions of said chapter
7 shall be applicable thereto, and the same shall be governed as
8 herein provided.

Sec. 28. The prosecuting attorney of Ohio county shall
2 attend the terms of said court, either by himself or his
3 assistant, and perform the duties of his office as required by
4 section six of chapter one hundred and twenty of the code,
5 and for the compensation therein stated and provided.

Sec. 29. Sections forty-one, forty-two and forty-three of
2 chapter forty-one of the code of West Virginia relating to
3 jails and jailers shall apply to the intermediate court of Ohio
4 county and the judge thereof, in the same manner and to the
5 same extent as they do to the circuit court of Ohio county and
6 the judge thereof.

Sec. 30. The West Virginia reports and bound acts of the
2 legislature are to be delivered to the said judge of the said court
3 in the same manner as they are required to be delivered to
4 the circuit courts of the state.

Sec. 31. The laws relating to the rules held in the office of
2 the clerk of the circuit court and the powers of the circuit
3 court over the same shall be applicable to said intermediate
4 court, and where not otherwise herein provided, the said court
5 and its clerks shall be governed by those rules and pleadings
6 and regulations where and whenever applicable as are con-
7 ferred upon the circuit court and its clerks and shall be gov-
8 erned by the same usages and principles of law.

Sec. 32. Upon every judgment of said intermediate court
2 the judgment creditors shall be entitled to all liens, executions
3 and remedies to secure or recover the same against any person
4 whatsoever, to which he would be entitled if it were a judgment
5 of the circuit court of said Ohio county; judgments rendered
6 in said intermediate court may be docketed in the judgment
7 lien docket kept in the county court clerk's office of any county
8 in like manner and in like effect as other judgments and execu-
9 tions on said judgments may likewise be docketed the same
10 as executions from the circuit court.

Sec. 33. Attachments may be issued by the clerk of said intermediate court under the same regulations and in the same cases as attachments are now issued by the clerks of the circuit courts, whenever applicable, and served in the same manner and with like effect.

Sec. 34. The circuit court of Ohio county may transfer to the said intermediate court all appeals from judgments of justices of the peace, and all other civil and criminal cases within the jurisdiction of said intermediate court, pending in said circuit court at the time this act goes into effect or that may hereafter be pending in said circuit court, and the same proceeded with, heard and determined in all respects, as though originally brought, matured and docketed in said intermediate court.

CHAPTER 121

(House Bill No. 189—By Mr. Street)

AN ACT to fix the salary of the prosecuting attorney of Barbour county, and providing for the appointment of an assistant prosecuting attorney, and fixing his salary.

[Passed April 14, 1925; in effect from passage. Approved by the Governor.]

Sec. 1. Salary of prosecuting attorney. 2. May appoint assistant prosecutor;		salary; inconsistent acts re- pealed.
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Be it enacted by the Legislature of West Virginia

Section 1. On and after the first day of January, one thousand nine hundred and twenty-nine, the annual salary of the prosecuting attorney of Barbour county shall be two thousand four dollars.

Sec. 2. The present prosecuting attorney of Barbour county, and his successors in office, may, with the consent of the county court of said county, appoint an assistant prosecuting attorney, whose annual salary shall be one thousand dollars, to be paid out of the county treasury.

All acts inconsistent with this act are hereby repealed.

CHAPTER 122

(House Bill No. 208 By Mr. Cotton)

AN ACT authorizing the board of county commissioners of Ohio county to pay additional compensation to the judges of the first judicial circuit and to the prosecuting attorney of Ohio county and providing for limitations and regulations under which such payments shall be made.

[Passed April 17, 1925; in effect from passage. Became a law without the approval of the Governor.]

<p>Sec. 1. Additional compensation judges first judicial circuit authorized; limitation of amount. 2. Additional allowance to prose-</p>		<p>cuting attorney for second assistant: limitation of amount; inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That the board of county commissioners of Ohio county be authorized to pay additional compensation to the judges of the first judicial circuit, and to the prosecuting attorney of Ohio county, and to limit and regulate such payment, as follows:

Section 1. That from and after January first, one thousand two hundred and twenty-six, the board of county commissioners of Ohio county is hereby authorized to pay additional compensation to the judges of the first judicial district but the amount of such compensation shall not exceed one thousand dollars per annum to each of said judges. Said board of county commissioners may arrange with the county courts of Brooke and Hancock counties or either or both of said counties whereby either or both of said county courts may contribute towards the payment of any such additional compensation so paid to said judges.

Sec. 2. That from and after January first, one thousand nine hundred and twenty-six, the board of county commissioners of Ohio county is hereby authorized to make an additional allowance to the office of the prosecuting attorney of Ohio county in an amount not exceeding one thousand five hundred dollars per annum for the purpose of providing compensation for a second assistant prosecuting attorney; *provided, however,* that any such additional compensation shall be paid to a second assistant prosecuting attorney who has been appointed by the prosecuting attorney to assist him in the discharge of his official duties during his term of office or any part thereof and only and after said assistant shall have taken the oath of of-

13 fice required by law of the prosecuting attorney; and, *pro-*
 14 *vided, further*, that said board of county commissioners shall
 15 approve any such appointment. If a second assistant prosecut-
 16 ing attorney has been so appointed, approved by the board and
 17 qualified, as hereinbefore provided, such additional compensa-
 18 tion, not to exceed the maximum amount as hereinbefore set
 19 out, shall be paid him in monthly installments during such
 20 period as he acts under any such appointment as second as-
 21 sistant prosecuting attorney.

All acts or parts of acts inconsistent herewith are hereby re-
 pealed.

CHAPTER 123

(House Bill No. 236—By Mr. Hundley)

AN ACT to amend and re-enact sections three and fifteen of chap-
 ter eight of the acts of the legislature of West Virginia passed
 February twelfth, one thousand eight hundred and ninety, as
 amended and re-enacted by chapter eighty-seven of the acts of
 the legislature of one thousand nine hundred and five, as amend-
 ed and re-enacted by chapter twenty-five of the acts of the legis-
 lature of one thousand nine hundred and seven, as amended
 and re-enacted by chapter twenty-eight of the acts of the legis-
 lature of one thousand nine hundred and nine, relating to the
 intermediate court of Kanawha county.

[Passed April 14, 1925; in effect from passage. Approved by the Governor.]

Sec. 3. Election of judge; time of elec- tion; terms. 15. When judge not to preside: pro-	visions for transfer of case; special judge; election of.
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Be it enacted by the Legislature of West Virginia:

That sections three and fifteen of chapter eight of the legislature
 of one thousand eight hundred and ninety, passed February twelfth,
 one thousand eight hundred and ninety, as amended and re-enacted
 by chapter eighty-seven of the acts of the legislature of one thou-
 sand nine hundred and five, as amended and re-enacted by chapter
 twenty-five of the acts of the legislature of one thousand nine hun-
 dred and seven, as amended and re-enacted by chapter twenty-eight
 of the acts of the legislature of one thousand nine hundred and nine,
 be amended and re-enacted so as to read as follows:

Section 3. The judge of said court elected at the general election held in this state on the Tuesday after the first Monday in November, one thousand nine hundred and twenty, shall hold his office for the term of six years, and until his successor is duly elected and qualified; and there shall at the general election to be held on the Tuesday after the first Monday in November, one thousand nine hundred and twenty-six, and every eight years thereafter, be elected by the legal voters of said county, a judge of the intermediate court of Kanawha county, who shall be a resident member of the bar of said county, who shall preside over the said court for the term of eight years from the first day of January succeeding said election, and shall be except as to his jurisdiction, subject to laws in force governing circuit judges.

Sec. 15. If the judge of said court in his judgment cannot properly preside at the hearing of any criminal case or action pending therein, said case or action may be, in his discretion, certified to and the original papers and indictments, together with a copy of the orders of the court, filed in the circuit court of said county, and the case or action shall be docketed therein and proceeded with as though the case or action had originally been brought and the prior proceedings had in the circuit court to which it was transferred, and the said intermediate court may in its discretion take such recognizance from the defendants in a bailable case and from the witnesses for the state, as he may deem proper for their appearance before said court; and the said intermediate court may in its discretion certify to the court of common pleas of said county for trial, any or all civil cases including cases appealed to said intermediate court from the judgments of justices of the peace of said county, now, or hereafter, pending in said court, and the original papers, together with a copy of the orders of said court, filed in the court of common pleas of said county, and the cases shall be docketed therein and proceeded with as though the cases had originally been brought and prior proceedings had in the said court of common pleas; or when for any cause the judge of said intermediate court is incapable of acting, or is absent, a special judge may be elected in the same manner as a special judge of the circuit court and governed in all respects as far as applicable to the said special judge of the circuit court, and shall be allowed fifteen dollars a day to be paid out of the county treasury; and

28 a change of venue of any case pending in said court may be
29 ordered as provided in chapter one hundred and fifty-nine of
30 the code of West Virginia.

All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 124

(House Bill No. 237—By Mr. Hundley)

AN ACT to amend and re-enact sections two and eleven of chapter one hundred and nine, of the acts of the legislature of West Virginia, passed February twentieth, one thousand nine hundred and fifteen, entitled 'An act establishing a court of common pleas of Kanawha county,' as amended and re-enacted by chapter eighty-eight of the acts of the legislature of one thousand nine hundred and seventeen.

[Passed April 8, 1925; in effect from passage. Approved by the Governor.]

Sec.

2. Jurisdiction.

11. Terms, time of; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections two and eleven of chapter one hundred and nine of the acts of the legislature of one thousand nine hundred and fifteen, as amended and re-enacted by chapter eighty-eight of the acts of the legislature of one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 2. The said court shall have original jurisdiction
2 within the county of Kanawha concurrent with the circuit court
3 of said county in all suits and proceedings in equity, in all
4 actions of ejectment, and in all other civil actions or proceed-
5 ings at law, except where it shall appear from the pleadings that
6 the matter or thing in controversy in any such civil action or
7 proceeding at law exceeds in value the sum of five hundred
8 thousand dollars, and also of appeals from the judgments of
9 justices of the peace in said county in civil cases when such
10 appeals shall be to said court in the same manner and under the
11 same regulations as provided in the general law for appeals from
12 justices and shall also have jurisdiction concurrent with the cir-
13 cuit court of said county as to the supervision and control of all
14 proceedings before justices of the peace of said county in civil

15 cases, by mandamus, prohibition or *certiorari*, subject to the
16 right of appeal to the circuit court of Kanawha county, as here-
17 inafter provided.

Sec. 11. There shall be three terms of said court held in each
2 year, commencing on the third Monday in February, third Mon-
3 day in June, and the third Monday in October. Adjourned and
4 special terms of said court may be called and held as provided
5 for special and adjourned terms of the circuit court.

6 All acts and parts of acts inconsistent herewith are hereby
7 repealed.

CHAPTER 125

(House Bill No. 313—By Mr. Roberts, by request)

AN ACT to provide a stenographer for the prosecuting attorney of
Calhoun county, West Virginia.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the
approval of the Governor.]

Sec.

1. Stenographer to prosecuting at-
torney; how paid.

Be it enacted by the Legislature of West Virginia:

Section. 1. The county court of Calhoun county may, at
2 its discretion, employ when necessary one stenographer for the
3 official work of the prosecuting attorney of the county, at a
4 compensation to be determined by the court, payable out of the
5 county treasury upon the order of the court.

CHAPTER 126

(House Bill No. 344—By Mr. Dorsey, by request)

AN ACT to provide for clerical and stenographic assistance for the
prosecuting attorney of Tucker county.

[Passed April 23, 1925; in effect 90 days from passage. Became a law without the
approval of the Governor.]

Sec.

1. Stenographer; compensation; in-
consistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The prosecuting attorney of Tucker county by and
2 with the consent of the county court, may employ a stenographer

3 or other clerical assistance for his office, but shall not expend
 4 for said purpose more than six hundred dollars per year.
 5 All acts and parts of acts inconsistent herewith are hereby
 6 repealed.

CHAPTER 127

(House Bill No. 384—By Mr. McCullough, by request)

AN ACT to provide for the payment to the prosecuting attorney
 of Pleasants county for assistants and other expenses.

[Passed April 24, 1925; in effect from passage. Became a law without the approval
 of the Governor.]

Sec.

1. Assistants and expenses for office.

Be it enacted by the Legislature of West Virginia:

That the prosecuting attorney of Pleasants county be allowed
 certain additional compensation for the employment of assistants
 and other expenses in connection with his office.

Section 1. That there be paid out of the county treasury
 2 of Pleasants county by and with the consent of the county
 3 court of said county to the prosecuting attorney of such
 4 county in addition to the other provisions made by law for the
 5 support of such office, a sum not to exceed fifty dollars a
 6 month during the years one thousand nine hundred and twenty-
 7 five, one thousand nine hundred and twenty-six, one thou-
 8 sand nine hundred and twenty-seven and one thousand nine
 9 hundred and twenty-eight, for the employment of assistants
 10 and other expenses connected with the conduct of such office.

CHAPTER 128

(House Bill No. 691—By Mr. Hundley)

AN ACT relating to the office of the prosecuting attorney of Kan-
 awha county, and providing additional help for same in case
 of emergency or necessity.

[Passed April 23, 1925; in effect from passage. Became a law without the
 approval of the Governor.]

Sec.

1. Investigation of crimes; may have
 assistance.

Sec.

2. Expenses, how paid.

Be it enacted by the Legislature of West Virginia:

That the prosecuting attorney of Kanawha county be authorized to expend money for the investigation of crimes in case of emergency or necessity; and to employ necessary legal assistance in matters relative to the duties of his office, and to provide compensation for the same in case of emergency or necessity.

Section 1. The prosecuting attorney of Kanawha county, with the approval of the judge of the intermediate court of said county, or the governor of the state of West Virginia, is hereby empowered and authorized to expend money for the investigation of crimes and for the employment, in case of emergency or necessity, of counsel to assist the prosecuting attorney of said county in the investigation and prosecution of crimes and in other legal matters pertaining to the duties of his office, and such counsel, when so employed, shall take the same oath of office and be authorized to perform the same duties as the prosecuting attorney.

Sec. 2. Any money expended under this act shall, when approved by the prosecuting attorney, be paid out of the county fund in the same manner as other county expenses are paid, *provided*, such sum of money does not exceed the sum of five thousand dollars per annum.

CHAPTER 129

(Senate Bill No. 69—By Mr. White)

AN ACT authorizing the county court of Wyoming county, West Virginia, to lay a special levy for the years one thousand nine hundred and twenty-five and one thousand nine hundred and twenty-six, on the taxable property in said county, for the purpose of building for said county, at the county seat thereof a jail and jailer's residence; and providing for the building thereof and for the receipt and disbursement of all moneys raised by said levy.

[Passed March 30, 1925: in effect from passage. Approved by the Governor.]

<p>Sec. 1. Special levy to build jail and jailer's residence.</p>	<p>Sec. 2. Plans and specifications: separate fund of special levy.</p>
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Be it enacted by the Legislature of West Virginia:

That the county court of Wyoming county be authorized to lay a special levy for the purpose of constructing a jail, as follows:

Section 1. For the purpose of building a jail and jailer's residence for the county of Wyoming, West Virginia, at the county seat of said county, the county court of said county is hereby authorized to lay a special levy on all taxable property within said county for the years one thousand nine hundred and twenty-five and one thousand nine hundred and twenty-six, not to exceed in either year fifteen cents on the one hundred dollars valuation of said property as assessed for regular state, county and district taxation. Said levy shall be called a special jail levy and the funds derived therefrom shall be used for said purpose and for no other.

Sec. 2. Said jail and jailer's residence shall be constructed in accordance with such plans and specifications as the said court may decide, and all moneys realized for said special levy shall be kept in a separate fund and a separate account kept of the receipts and disbursements of the same.

CHAPTER 130

(Senate Bill No. 75—By Mr. Woods)

AN ACT to validate the proceedings authorizing the issuance of bonds of the board of education of Big creek district in the county of McDowell, state of West Virginia, in the sum of three hundred thousand (\$300,000.00) dollars authorized at an election held in said district on the fourth day of November, one thousand nine hundred and twenty-four, by a vote of three-fifths (3-5) of the voters voting at said election upon the question of issuing said bonds, for the purpose of building and improving certain schools in said Big Creek district; and to authorize the execution and sale of said bonds, and to provide a tax to pay the same and the interest thereon. The same being an emergency measure.

[Passed January 24, 1925; in effect from passage. Approved by the Governor.]

Sec.
1. Validate bond election.
2. Sale of bonds; the bonds.

Sec.
3. Form of bonds.

Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of bonds of Big Creek district in the county of McDowell, state of West Virginia, in the sum of three hundred thousand (\$300,000.00) dollars authorized at an election held on the fourth day of November, nineteen hundred and twenty-four, by a vote of three-fifths (3-5) of the voters of said district voting upon the question of issuing said bonds, for the purpose of building a new school building at or near Bartley; a new high school at Coalwood; a new school building at Newhall; a new school building near state line at Beech Fork, on property of Pocahontas Fuel Company, Incorporated; additions to War-Excelsior consolidated school; Yukon junior high school; Caretta junior high school; Berwind high school, and Excelsior colored high school, are hereby in all respects validated and confirmed.

Sec. 2. The board of education of Big Creek district in the county of McDowell, state of West Virginia, is hereby authorized to execute, make sale of and deliver the bonds described in section one of this act pursuant to the proceedings mentioned therein, except as herein differently provided, which said bonds shall bear date as of the first day of January, one thousand nine hundred and twenty-five, and interest at the rate of five and one-half per centum per annum, payable semi-annually, and be of the denomination of one thousand dollars each, and numbered from one to three hundred, both inclusive, and payable as follows:

12 Nos. 1 to 15, January 1, 1926;
13 Nos. 16 to 30, January 1, 1927;
14 Nos. 31 to 45, January 1, 1928;
15 Nos. 46 to 60, January 1, 1929;
16 Nos. 61 to 75, January 1, 1930;
17 Nos. 76 to 90, January 1, 1931;
18 Nos. 91 to 105, January 1, 1932;
19 Nos. 106 to 120, January 1, 1933;
20 Nos. 121 to 135, January 1, 1934;
21 Nos. 136 to 150, January 1, 1935;
22 Nos. 151 to 165, January 1, 1936;
23 Nos. 166 to 180, January 1, 1937;
24 Nos. 181 to 195, January 1, 1938;
25 Nos. 196 to 210, January 1, 1939;

- 26 Nos. 211 to 225, January 1, 1940;
27 Nos. 226 to 240, January 1, 1941;
28 Nos. 241 to 255, January 1, 1942;
29 Nos. 256 to 270, January 1, 1943;
30 Nos. 271 to 285, January 1, 1944;
31 Nos. 286 to 300, January 1, 1945.

Sec. 3. Each of the bonds herein authorized and the coupons to be attached therein, shall be substantially in words and figures as follows, to-wit:

4 UNITED STATES OF AMERICA
5 STATE OF WEST VIRGINIA,
6 BIG CREEK DISTRICT,
7 McDOWELL COUNTY,
8 SCHOOL BOND.

9 *Know all Men by These Presents:* That the board of education of the district of Big Creek, in the county of McDowell, State of West Virginia, a corporation created and existing under and by virtue of the laws of the state of West Virginia, for value received, acknowledges itself to be indebted and promises to pay to the bearer the sum of

15 ONE THOUSAND DOLLARS

16 in gold coin of the United States of America, of the present standard of weight and fineness, on the first day of January, 19—, together with interest thereon at the rate of five and one-half (5½%) per centum, payable semi-annually, on the first day of July and the first day of January of each year both the principal and interest thereof being payable to the bearer at the office of the treasurer of the state of West Virginia, or at the National City bank in New York City, state of New York at the option of the holder of each of said bonds, and interest being payable only upon presentation and surrender of the annexed coupons as they severally become due and payable.

27 This bond is one of a series of three hundred bonds aggregating three hundred thousand (\$300,000.00) dollars numbered from one (1) to three hundred (300) inclusive, of like date, tenor and effect except as to number and maturity, issued for the purpose of providing funds for the cost of purchasing school sites, erecting, enlarging, or furnishing school buildings at or near Bartley, high school building at Coalwood, graded

34 school building at Newhall, new school building near state
 35 line at Beechfork, West Virginia, additions to War-Excelsior
 36 consolidated school, Yukon junior high school, Berwind high
 37 school, and Excelsior colored high school in Big Creek district,
 38 McDowell county, West Virginia.

39 The holder of this bond shall present the same for payment
 40 upon the date and at the place, or any of the places fixed for
 41 payment thereof, and failure to so present such bond shall
 42 cause the interest thereon to cease, and no interest thereon
 43 shall be paid after this bond becomes due, unless the same
 44 be presented, and no interest coupon shall bear interest after
 45 the date fixed for presentation thereof, unless presented.

46 This bond and all of said bonds set out in the above schedule
 47 are issued pursuant to and in conformity with the Constitution
 48 and laws of the state of West Virginia, including an act passed
 49 by the legislature on the twenty-fourth day of January, one
 50 thousand nine hundred and twenty-five.

51 *In Testimony Whereof* the board of education of Big Creek
 52 district, in the County of McDowell, state of West Virginia,
 53 has caused this bond to be signed by its president, and counter-
 54 signed by its secretary, with the seal of the said board hereto
 55 affixed, and has caused the annexed interest coupons to be
 56 executed with the engraved fac-simile signatures of the said
 57 president and secretary, and this bond is to be dated the first
 58 day of January, one thousand nine hundred and twenty-five.

59 BOARD OF EDUCATION OF THE DISTRICT OF BIG CREEK IN

60 THE COUNTY OF McDOWELL, WEST VIRGINIA.

61 (Seal) By..... President.

62 Countersigned :

63

64 COUPON.

65 No..... \$.....

66 On the first day of....., 19...., the
 67 board of education of the district of Big Creek, in the county
 68 of McDowell, West Virginia, will pay to the bearer \$.....,
 69 at the office of the treasurer of the state of West Virginia, or
 70 at the National City bank in the city of New York, at the
 71 option of the holder, it being six months' interest on its school
 72 bond No....., for one thousand dollars, dated the
 73 first day of January, nineteen hundred and twenty-five.

74 BOARD OF EDUCATION OF THE DISTRICT OF BIG CREEK IN
 75 THE COUNTY OF McDOWELL, WEST VIRGINIA.
 76 By.....
 77 (Seal) President.
 78 Countersigned:
 79

CHAPTER 131

(Senate Bill No. 78—By Mr. Darnall)

AN ACT authorizing a special bridge levy in Lincoln county, for the purpose of erecting a bridge across the Guyandotte river at Midkiff, Lincoln county, and other bridges in said county.

[Passed April 8, 1925; in effect from passage. Became a law without the approval of the Governor.]

- | | |
|---|---|
| <p>Sec.
 1. Special bridge levy.
 2. Plans and specifications of bridge furnished by county court; sheriff to collect and keep separate</p> | <p>Sec.
 account of fund; disbursement of the same.
 3. Additional use of levy.</p> |
|---|---|

Be it enacted by the Legislature of West Virginia:

That the county court of Lincoln county be authorized to lay a special levy for the purpose of constructing bridges in said county, and providing for the collection and disbursement of the funds accruing from such special levy.

Section 1. For the purpose of constructing a public bridge across the Guyandotte river at Midkiff, and other bridges in Lincoln county, West Virginia, the county court of said county is hereby authorized to lay a special levy on all taxable property within the said county for the year one thousand nine hundred and twenty-five, for the year one thousand nine hundred and twenty-six, and for the year one thousand nine hundred and twenty-seven not to exceed in either year ten cents on the one hundred dollars valuation of said property, as assessed for regular state, county and district taxation. Said levy shall be called the "special bridge levy," and the funds derived therefrom shall be used for said purpose and for no other.

Sec. 2. Said bridge shall be constructed according to such plans and specifications as said county court may decide upon and all moneys realized from said special levy shall be col-

4 lected by the sheriff of said county and shall be kept in a
5 separate fund and a separate account kept of the receipts and
6 disbursements of the same.

Sec. 3. After said bridge at Midkiff is completed, the county
2 court of Lincoln county is hereby authorized to use the remain-
3 der of the funds from said levies to build other bridges in said
4 county, as in its judgment they are needed.

CHAPTER 132

(Senate Bill No. 129—By Mr. Johnson)

AN ACT authorizing the county court of Putnam county to lay a
special levy for the purpose of building a jail, jailer's resi-
dence, and repairing and improving the court house of said
Putnam county.

[Passed April 17, 1925; in effect from passage. Became a law without the
approval of the Governor.]

Sec. 1. County court Putnam county authorized to lay levy to build		jail; limitation of levy; man- damus procedure in case county court refuses to comply.
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Be it enacted by the Legislature of West Virginia:

That the county court of Putnam county be authorized to lay a
special levy for certain purposes, as follows:

Section 1. The county court of Putnam county, West Vir-
2 ginia, is hereby authorized to lay a special levy on all the tax-
3 able property within said Putnam county, in the year one
4 thousand nine hundred and twenty-five, for the purpose of
5 building a jail, and jailer's residence, and for the purpose of
6 repairing the court house, and the improvement thereof, not
7 to exceed ten cents on the one hundred dollars valuation of
8 the taxable property within said county; and if the amount
9 raised by the special levy for said year one thousand nine
10 hundred and twenty-five is insufficient for said purposes, the
11 said county court of Putnam county is hereby authorized to
12 lay a special levy on all taxable property within said county
13 for the year one thousand nine hundred and twenty-six, not
14 to exceed ten cents on the one hundred dollars valuation of
15 the taxable property within said county.

16 It is further hereby provided that should said county court
17 fail or refuse to lay the levy herein authorized, and order the

18 improvements as herein provided for, then and in that event,
 19 any resident or taxpayer of said county may proceed by man-
 20 damus or other appropriate remedy to the circuit court of said
 21 county to compel the laying of such levy, and the ordering of
 22 the improvements as herein provided for, reasonable cause
 23 therefor being shown to said circuit court.

CHAPTER 133

(Senate Bill No. 184—By Mr. Jackson)

AN ACT authorizing the county of Logan to lay a special levy for the purpose of raising sufficient funds to enable said county to pay indebtedness existing on the thirtieth day of June, one thousand nine hundred and twenty-four, other than bonded indebtedness, as shown by a report of Grant P. Hall, state tax commissioner, and *ex-officio* chief state inspector of public offices, and to allow the county court of Logan county to use for the purpose of keeping the poor and paupers and paying mother's pensions the money now in the fund for the public health work in said county in excess of the current annual budget for said health work.

[Passed January 27, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec. 1. Special debt levy; purpose. 2. To pay other indebtedness.		Sec. 3. Care of the poor and paupers. 4. Repeal inconsistent acts.
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Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Logan county is hereby
 2 authorized to lay an additional levy to be called, "Special Debt
 3 Levy," over, above and in addition to all other authorized lev-
 4 ies of not exceeding ten cents on each one hundred dollars of
 5 assessed valuation of all the assessable property within said
 6 county for the fiscal year one thousand nine hundred and
 7 twenty-five, for the purpose of paying debts owed by and
 8 existing against the county, or overdrafts of the general county
 9 fund, other than bonded indebtedness, as existing and as
 10 shown by the settlement and report made by Grant P. Hall,
 11 state tax commissioner, and *ex-officio* chief inspector of public
 12 offices, of the financial condition of said county at the end of the
 13 fiscal year ending June thirtieth, one thousand nine hundred
 14 and twenty-four.

Sec. 2. Said county court is also authorized and directed to use said funds derived from said special levy to pay off said existing indebtedness, existing and owed by it as aforesaid; and they are hereby authorized and empowered to anticipate the payment of said special levy and to issue their warrants payable on the first day of December, one thousand nine hundred and twenty-five, out of said special levy for the purpose of paying said debts; and they are also further authorized and empowered to likewise issue said warrants to meet the current expenses required by law to be paid for the fiscal year one thousand nine hundred and twenty-five, insofar as the same may be necessary by reason of the current funds of the year one thousand nine hundred and twenty-four having been already expended by said county court in the payment of indebtedness existing as aforesaid. And the warrants thus issued shall from the time they are presented to the sheriff and are endorsed by him, thereafter and until the first day of December one thousand nine hundred and twenty-five bear legal interest at the rate of six per cent per annum.

Sec. 3. The county court of Logan county is also authorized and empowered to pay any current expense hereafter created in taking care of the poor and paupers of said county and in paying mothers' pensions, out of the money raised under the act allowing three cents on each one hundred dollars valuation to be levied to provide for a full time health officer and department; *provided, however*, that no funds shall be used by the county court out of this health fund under this act unless there remains with the fund a sufficient amount of money to meet the budget of said health department for the current year.

Sec. 4. All acts and parts of acts inconsistent herewith are hereby expressly repealed, insofar as the same apply to the county court of Logan county.

CHAPTER 134

(Senate Bill No. 407—By Mr. Jackson)

AN ACT to authorize the county court of Boone county to lay a special levy for any three consecutive years not exceeding ten cents in any one year on the one hundred dollars valuation on

the taxable property in such county under the provisions of the constitution and laws of this state for the sole purpose of purchasing land by condemnation or otherwise, and erecting thereon a jail and jailer's residence.

[Passed April 17, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Authorization of levy for building jail.

Be it enacted by the Legislature of West Virginia:

That the county court of Boone county be authorized to lay a special levy for the purpose of acquiring land and erecting a jail and jailer's residence thereon in said county.

Section 1. The county court of Boone county may for any 2 three consecutive years for the sole purpose of purchasing land 3 by condemnation or otherwise, and erecting thereon a jail and 4 jailer's residence, lay a special levy not exceeding ten cents 5 in any one year on the one hundred dollars valuation on the 6 taxable property in such county under the provisions of the 7 constitution and laws of this state.

CHAPTER 135

(Senate Bill No. 410—By Mr. Willis)

AN ACT to validate the proceedings authorizing the issuance of road bonds of Clinton district in the county of Monongalia, state of West Virginia, in the sum of one hundred and forty-five thousand dollars authorized at an election held in said district on the twenty-first day of March, one thousand nine hundred and twenty-five, by a vote of three-fifths of the voters voting at said election upon the question of issuing said bonds, for the purpose of building and improving certain roads in said Clinton district; and to authorize the execution and sale of said bonds, and to provide a tax to pay the same and the interest thereon.

[Passed April 23, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Validate former bonds.
2. County court to execute and sell bonds.

Sec.

3. Form of bonds.
4. Levy for interest and retirement fund.

Be it enacted by the Legislature of West Virginia:

That certain proceedings authorizing the issuance of road bonds of Clinton district in Monongalia county be validated, and the execution and sale of said bonds be authorized; and providing a tax to pay the said bonds and the interest thereon.

Section 1. All proceedings authorizing the issuance of road bonds of Clinton district in the county of Monongalia, state of West Virginia, in the sum of one hundred and forty-five thousand dollars authorized at an election held on the twenty-first day of March, one thousand nine hundred and twenty-five, by a vote of three-fifths of the voters of said district voting upon the question of issuing said bonds for the purpose of building and constructing certain roads as set out in the order of the county court on the seventh day of February, one thousand nine hundred and twenty-five, submitting the proposition of issuing said bonds to the voters of said district are hereby in all respects validated and confirmed.

Sec. 2. The county court of the county of Monongalia, state of West Virginia, is hereby authorized to execute, make sale of and deliver the bonds described in section one of this act pursuant to the proceedings mentioned therein, except as hereinafter differently provided, which said bonds shall bear date as of the first day of June, one thousand nine hundred and twenty-five, and interest at the rate of five and one-half per centum per annum, payable semi-annually, and be of the denomination of one thousand dollars each, and numbered from one to one hundred and forty-five, both inclusive, and payable as provided in said order of the county court made on the seventh day of February, one thousand nine hundred and twenty-five.

Sec. 3. Each of the bonds herein authorized and the coupons to be attached thereto, shall be substantially in words and figures as follows, to-wit:

4 UNITED STATES OF AMERICA
5 STATE OF WEST VIRGINIA
6 CLINTON DISTRICT
7 MONONGALIA COUNTY

8 *Permanent Road Improvement Bond*

9 *Know all men by these presents:* That the county court of
10 Monongalia county, state of West Virginia, a corporation cre-
11 ated and existing under and by virtue of the laws of the state

12 of West Virginia, for and on behalf of and in the name of the
13 magisterial district of Clinton for value received, acknowledges
14 itself to be indebted and promises to pay the bearer the sum of
15

ONE THOUSAND DOLLARS

16 in gold coin of the United States of America, of the present
17 standard of weight and fineness, on the first day of June, one
18 thousand nine hundred and....., together with
19 interest thereon at the rate of five and one-half per centum per
20 annum, payable semi-annually, on the first day of June and
21 the first day of January of each year; both the principal and
22 interest thereof being payable to the bearer at the office of the
23 treasurer of the state of West Virginia, or at the National City
24 Bank in New York city, state of New York, at the option of the
25 holder of each of said bonds; said interest being payable only
26 upon presentation and surrender of the annexed coupons as they
27 severally become due and payable.

28 This bond is one of a series of one hundred and forty-five
29 bonds, aggregating one hundred and forty-five thousand dollars
30 numbered from one to one hundred and forty-five inclusive,
31 of like date, tenor and effect except as to number and maturity,
32 issued for the purpose of providing funds for the cost of im-
33 proving certain roads in Clinton district, Monongalia county,
34 West Virginia.

35 The holder of this bond shall present the same for payment
36 upon the date and at the place, or any of the places fixed for
37 payment thereof, and failure to so present such bond shall cause
38 the interest thereon to cease, and no interest thereon shall be
39 paid after this bond becomes due, unless the same be presented,
40 and no interest coupon shall bear interest after the date fixed
41 for presentation thereof, unless presented.

42 This bond and all of said bonds set out in the above schedule
43 are issued pursuant to and in conformity with the constitution
44 and laws of the state of West Virginia, including an act passed
45 by the legislature on the twenty-third day of April, one thou-
46 sand nine hundred and twenty-five.

47 *In testimony whereof*, the county court of Monongalia
48 county, state of West Virginia, has caused this bond to be signed
49 by its president, and countersigned by its clerk, with the seal
50 of the said court hereto affixed, and has caused the annexed
51 interest coupons to be executed with the engraved *fac-simile*

52 signatures of the said president and clerk, and this bond is dated
53 the first day of June, one thousand nine hundred and twenty-
54 five.

55 COUNTY COURT OF MONONGALIA COUNTY, WEST VIRGINIA

56 By....., President.

57 (SEAL)

58 Countersigned,

59, Clerk.

60 COUPON

61 No..... \$.....

62 On the first day of, one thousand nine
63 hundred and, the county court of Monongalia
64 county, West Virginia, will pay to the bearer
65 dollars, at the office of the treasurer of the state of West Vir-
66 ginia, or at the National City bank in the City of New York,
67 at the option of the holder, it being six months' interest on its
68 road bond number for one thousand dollars, dated
59 the first day of June, one thousand nine hundred and twenty-
70 five.

71 COUNTY COURT OF MONONGALIA COUNTY, WEST VIRGINIA

72 By, President.

73 Countersigned,

74, Clerk.

Sec. 4. The county court of Monongalia county, West Vir-
2 ginia, shall annually impose and collect a tax in excess of all
3 other taxes, on all property, subject to taxation in said Clinton
4 district, sufficient in amount to pay annually the interest on the
5 bonds herein authorized, and the principal thereof at maturity.

CHAPTER 136

(House Bill No. 121—By Mrs. Davis)

AN ACT authorizing and directing the county court of Fayette
county for and on behalf of the magisterial district of Ka-
nawha, situate in said county, to issue bonds for the purpose of
constructing or purchasing a bridge across the Kanawha river
in or near the city of Montgomery and authorizing the said
county court of Fayette county to lay a levy sufficient to pay
the principal of and interest on said bonds in order to retire
the same serially within ten years.

[Passed April 14, 1925; in effect from passage. Approved by the Governor.]

<p>Sec. 1. May issue bridge bonds; referendum. 2. County court authorized to purchase or construct or purchase stock of corporation; sinking fund.</p>	<p>Sec. 3. County court; when may not levy for sinking fund. 4. When bridge not subject to taxation. 5. Bonds paid for, bridge fare.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Fayette county, West Virginia, for and on behalf of the magisterial district of Kanawha, situate therein, be authorized and directed to call a special election of the voters of said district within ten days after this act becomes effective for the purpose of authorizing, with the consent of three-fifths of all the votes cast for and against the same, the issuance of one hundred and fifty thousand dollars of special bonds for the purpose of constructing or purchasing a bridge across the Kanawha river, in or near the city of Montgomery; said county court, with the consent of and at the direction of three-fifths of all the votes cast for and against the same in said district as shown by the said special election herein authorized to be called, is hereby authorized and required to issue bonds for and on behalf of the magisterial district of Kanawha, situate in the county of Fayette, in an amount not exceeding one hundred and fifty thousand dollars in addition to any and all other bonds heretofore authorized by and outstanding against said magisterial district. Said bonds, except as to amount, shall be authorized and issued in accordance with chapter fourteen of the acts of the legislature of one thousand nine hundred and twenty-three, with the further exception that the bonds shall be issued serially and due and payable in equal amounts from one to ten years.

Sec. 2. In the event of the issuance and sale of said bonds, the county court of Fayette county is hereby authorized to construct or purchase a bridge as in its judgment seems best. It is further authorized to purchase the outstanding stock of any corporation owning a bridge heretofore constructed in or near the said city of Montgomery. Said county court shall hold any bridge constructed or purchased under the provisions of this act and shall appoint a treasurer, who shall serve without pay and be a resident of Kanawha district, to collect tolls on said bridge for such time and at such rates as the court shall direct. All moneys collected by said treasurer shall be paid

12 monthly to the sheriff of Fayette county and said sheriff shall
13 keep a separate account on his books of the amount so paid.
14 Out of said fund the county court shall pay the upkeep, over-
15 head and running expenses of said bridge so long as it is main-
16 tained as a toll bridge, pay the expense of the issuance and
17 sale of bonds herein authorized and place the remainder of the
18 said fund at the end of the fiscal year in the sinking fund for
19 the purpose of retiring the bonds authorized by this act and
20 paying the interest thereon.

Sec. 3. In the event it be the judgment of the county court
2 of Fayette county and in the event there be a sufficient amount
3 collected in tolls from any bridge constructed or purchased
4 under the provisions of this act to pay the semi-annual inter-
5 est and to provide a sinking fund for the payment of any bonds
6 issued under the provisions of this act, then the county court
7 shall not be compelled, although authorized, to lay a levy for
8 sinking fund purposes as authorized by this act.

Sec. 4. In the event of the purchase of all the outstanding
2 stock of any corporation which has heretofore constructed a
3 bridge or which may hereafter construct a bridge in or near
4 the city of Montgomery, across the Kanawha river, under the
5 provisions of this act, said bridge shall be considered as owned
6 by the district of Kanawha and county of Fayette and this
7 property shall not be subject to taxation for state, county,
8 municipal or district purposes.

Sec. 5. When the bonds, and all interest thereon, authorized
2 and issued under the provisions of this act are paid for and re-
3 tired, any bridge constructed or purchased under the provisions
4 of this act shall be free and open to public traffic under such
5 provisions, rules and regulations as are now or may be provided
6 in accordance with general law, and shall be maintained by the
7 political divisions in which said bridge is located in proportion
8 to the amount of the bridge in such political divisions.

CHAPTER 137

(House Bill No. 312—By Mr. Roberts by request)

AN ACT to provide for the construction of bridges in Calhoun
county, West Virginia.

[Passed April 14, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Levy for bridges.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Calhoun county shall have
2 the power to lay a special levy for a period of six years,
3 beginning with the levy for the year one thousand nine hundred
4 and twenty-five and ending with the levy for the year one
5 thousand nine hundred and thirty-one, of not more than fifteen
6 cents on every one hundred dollars of the assessed valuation of
7 the property in said county for said respective years, to be used
8 exclusively for the construction of bridges in said county.

CHAPTER 138

(House Bill No. 385—By Mr. McCullough, by request)

AN ACT to authorize the common council of the City of St. Marys,
a municipal corporation of said state, to levy moneys to pay off
the present outstanding indebtedness of said city represented
by sundry and divers orders issued by the said common council
prior to the first day of January, one thousand nine hundred
and twenty-five.

[Passed April 17, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Levy for indebtedness authorized;
referendum.

Be it enacted by the Legislature of West Virginia:

Section 1. The common council of the City of St. Marys,
2 a municipal corporation of said state, in the county of Pleasants,
3 be and said council is hereby authorized to levy a sum not to
4 exceed ten cents on the hundred dollars valuation of all property,
5 real and personal, within said city, and to include on corpora-
6 tions therein, for a period of six years next ensuing, beginning
7 with the fiscal year one thousand nine hundred and twenty-five,
8 for the purpose of paying off and discharging the indebtedness
9 owing by said city to divers persons on account of orders here-
10 tofore issued by the common council of the City of St. Marys,
11 and held by them respectively, and said levy to be in addition
12 to the regular annual levy of thirty-five cents on the one hun-

13 dred dollars now allowed by law. The question whether said
 14 levy shall be laid shall be submitted to a vote of the people
 15 of said city at the next regular election held therein and said
 16 levy shall not be laid unless three-fifths of the votes cast at such
 17 election are in favor thereof.

CHAPTER 139

(House Bill No. 511—By Mr. Mathews)

AN ACT authorizing and directing the county court of Kanawha county to submit to the voters of said county at a special election, the question of issuing and selling the bonds of said county in an amount not exceeding one million seven hundred and fifty thousand dollars to be used for the purpose of purchasing or constructing four bridges across the Great Kanawha river in said county; providing for the manner of holding such special election; providing for the administration of and expenditure of said fund, and providing for the collection of certain tolls at said bridges and the application thereof.

[Passed April 22, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. Bonds for bridges; referendum; amount.
2. County court authorized to construct or purchase bridges; location; how tolls to be used.
3. Levy, when to be laid; rate.
4. County court, powers of; provision.

Sec.

5. Referendum for issue and questions connected therewith; ballots, form of; publication; election, how conducted; registration regulations; expense, how paid.
6. County court duties.

Be it enacted by the Legislature of West Virginia:

That the county court of Kanawha county be authorized to submit to the voters of said county at a special election the question of issuing the bonds of said county, the proceeds from which bonds, if authorized by the voters, to be used for purchasing or constructing four bridges across the Great Kanawha river in said county; providing for the manner of holding such election and for the administration and expenditure of said fund.

Section 1. That the county court of Kanawha county, West 2 Virginia, be authorized and directed to adopt and submit 2-a at a special election of the voters of said county as 3 provided in this act, an order for the purpose of au- 4 thorizing with the consent of three-fifths of all the votes

5 cast for and against the same, the issuance of not
6 to exceed one million seven hundred and fifty thousand dollars
7 of special bridge bonds for the purpose of constructing or
8 purchasing four bridges across the Great Kanawha river in said
9 county; said county court with the consent of and at the
10 direction of three-fifths of all the votes cast for and against
11 the same in said county as shown by the said special election
12 herein authorized to be held, is hereby authorized to issue
13 bonds for and on behalf of said county not exceeding one
14 million seven hundred and fifty thousand dollars, the first of
14-a said bonds shall mature two years from date of issue. Said elec-
15 tion shall be held and said bonds authorized, issued and sold
16 in accordance with chapter fourteen of the acts of the legisla-
17 ture of one thousand nine hundred and twenty-three.

Sec. 2. In the event of the issuance and sale of said bonds,
2 said county court of Kanawha county is hereby au-
2-a thorized and directed to construct or purchase four
3 bridges across the Great Kanawha river as herein pro-
4 vided. One of the bridges shall connect the districts
5 of Jefferson and Union in said county; one of said bridges
6 shall connect the districts of Charleston and Louden
7 at a point near the west end of the corporate limits of the
8 City of Charleston; one of said bridges shall connect the City
9 of Charleston and Kanawha City at a point near the east end
10 of the corporate limits of the City of Charleston; all
11 of the other of said bridges shall be located at some
11-a point in Cabin Creek district in said county, each of
12 which locations shall be definitely fixed by the county court of
13 Kanawha county in the order submitted at such elec-
14 tion and in the same order the county court shall sub-
15 mit the closest estimate of cost of each thereof which
16 it shall be able to ascertain with the aid of engineers. Said
17 order shall provide that each of said bridges shall be free
18 and open to public travel without toll on and after five years
19 after purchase of or completion of construction thereof;
20 but during said five years said county court shall maintain any
21 bridge constructed or purchased under the provisions of this
22 act as a toll bridge and shall appoint the sheriff of Kanawha
23 county as treasurer of said fund and shall appoint proper
24 persons to collect tolls on said bridge at such rates and under
25 such regulations as the court shall direct, all of which toll

26 collectors shall be required to give proper bond. Said sheriff
27 of Kanawha county shall keep a separate account on his books
28 of the amount of tolls so collected. Out of said special toll
29 fund the county court shall pay the upkeep, overhead and
30 running expenses of said bridges so long as they are maintained
31 as toll bridges, pay the expenses of the issuance of and sale of
32 bonds herein authorized and place the remainder of the said
33 fund at the end of each fiscal year in the sinking fund for the
34 purpose of retiring the bonds authorized by this act and paying
35 the interest thereon.

Sec. 3. In the event there be a sufficient amount collected
2 in tolls from any bridge or bridges constructed or purchased
3 under the provisions of this act to pay the semi-annual inter-
4 est and to provide a sinking fund for the payment of any bonds
5 issued under the provisions of this act, then the county court
6 shall not lay a levy for sinking fund purposes as may be
7 authorized under this act, and chapter fourteen of the acts of
8 one thousand nine hundred and twenty-three. And in no
9 event shall any more of such authorized levy be laid in any
10 year, than will produce sufficient money which, added to the
11 money received from tolls will meet such interest and sinking
12 fund requirements. At any time that all of the bonds that
13 shall have been issued pursuant to the authority of said elec-
14 tion, shall have been paid, or a sufficient sum of money accumu-
15 lated in the sinking fund to pay all of such bonds then outstand-
16 ing with interest, as they mature, then each and all of said
17 bridges shall immediately become free, even if said period of
18 five years from the purchase or construction thereof shall not
19 have expired.

Sec. 4. In the construction or purchase of any of said
2 bridges, said county court shall have power, as herein pro-
3 vided, to enter into any agreement with the Charleston Inter-
4 urban railway company, or any other public utility relative to
5 the construction, use and maintenance thereof, which to said
6 county court shall appear just and reasonable and which shall
7 assure to the public traveling by street cars or other public
8 utility agency the use of said bridge or bridges free from toll
9 after five years from purchase or construction of said bridges;
10 *provided, however*, that any agreement so made under the pro-
11 visions of this section shall provide that the toll or extra fare in
12 any manner charged or collected by any street ear line, or other

13 public utility, for travel over any of said bridges during all or
14 any part of said five-year period, shall be paid into the bond
15 sinking fund account as provided for other tolls under the pro-
16 visions of this act. Any agreement made under the provisions
17 of this section shall be subject to the approval of the state
18 road commission and the substantial terms thereof shall be
19 stated in the order herein provided to be submitted to the vote
20 of the people.

Sec. 5. Such order of the county court of said county pro-
2 viding for the issue of said bonds and the construction or pur-
3 chase of said bridges and all questions connected therewith as
4 required by law, shall be submitted to the voters of said county
5 of Kanawha at a special election which is hereby called and
6 directed to be held in the several precincts of said county on the
7 seventh day of July, one thousand nine hundred and twenty-
8 five, and the ballots to be used at said election shall be fur-
9 nished by said county court, shall have printed thereon in plain
10 words the direct question of the ratification or the rejection of
11 such order, so that the voter may conveniently express his will
12 thereon, and a copy of such ballot shall be printed in each of
13 two newspapers of different politics and of general circulation
14 in said county once a week for at least four weeks before said
15 election.

16 The said county court of Kanawha county shall hold a reg-
17 ular or special term day thereof at the court house on the
18 twenty-second day of June, one thousand nine hundred and
19 twenty-five, and on said day shall appoint three commissioners
20 and two clerks for each of the election precincts in said county
21 to hold, conduct and return the said special bond election therein
22 in all respects as provided by law for general elections, but if
23 a county committee shall have then been organized by those
24 citizens of the said county who are opposed to the authoriza-
25 tion of said bonds, and by those citizens who favor their author-
26 ization at such election, or by either of such groups, and if the
27 regularly elected chairman of either or both of such committees
28 shall on or before said appointment date file with the clerk of
29 such court a duly authenticated paper naming a qualified voter
30 of the precinct and requesting that such voter be appointed as
31 one of such commissioners in each or any of the voting precincts
32 in said county, it shall be the duty of such county court to
33 appoint such person as such commissioner. If such chairman

34 shall also name a person to act as clerk at such precinct or pre-
35 cincts, such person shall likewise be appointed. Any vacancies
36 that shall occur in such election boards shall be filled by the
37 voters at such precinct on election day as provided by the law
38 governing general elections. The commissioners and clerks
39 holding such election shall conduct the same, ascertain and
40 return the result thereof in all respects as required by general
41 law, and the county court shall canvass the returns and de-
42 clare the result thereof as in other elections.

43 The registration of voters for the special election provided
44 for in this act shall be the same registration which was made
45 for the general election held in Kanawha county on the fourth
46 day of November, one thousand nine hundred and twenty-four,
47 as shown by the registration books now on file with the clerk
48 of the county court thereof, except that the county court shall
49 appoint two persons as registrars in each of the precincts in
50 said county, whose duty it shall be to qualify according to law,
51 and after posting for five days notice thereof, to sit at some pub-
52 lic place in their voting precinct on the twenty-second and
53 twenty-third days of June, one thousand nine hundred and
54 twenty-five, for the purpose of making any necessary correc-
55 tions in said registration lists, after which said registration
56 books shall be returned to the clerk of the county court of
57 Kanawha county and shall be by him submitted to the county
57-a court which shall review or correct the same in all re-
58 spects as is provided by general law for review of reg-
59 istration, and thereafter they shall be delivered with the bal-
60 lots to the said commissioners of election. The clerk of said
61 county court shall deliver to the registrars so to be appointed
62 in and for each precinct, both copies of the registration books
63 for such precinct for said general election of one thousand nine
64 hundred and twenty-four. Such registrars shall receive as full
65 compensation for their services above provided for, the sum of
66 four dollars for each of the two days they shall sit, as required
67 hereunder. The expense of such election shall be paid out of
68 the county treasury.

Sec. 6. If such bonds shall be authorized, it shall be the
2 duty of the county court to issue and sell the same according
2-a to law at not less than par and accrued interest, and
3 purchase or let the contract as set forth in said order
4 each and all of said four bridges as provided in such order as

5 soon thereafter as practicable, but no contract for any of such
6 bridges shall be let except with the approval of the state road
7 commission of West Virginia, whose duty it shall be to co-
8 operate with the county court in letting such contracts and
9 supervising the completion of said bridges. If the state road
10 commission shall be willing to join with said Kanawha county
11 in the construction of any one or more of said bridges and
12 share part of the cost thereof, in case said bonds shall be author-
13 ized, the said county court is hereby authorized to jointly con-
14 struct such bridge or bridges under such contract as said
15 road commission shall be willing to make. In no event shall a
16 greater sum or amount of such bonds be issued and sold than
17 shall be necessary to pay the cost to the county of Kanawha
18 of so constructing said bridges.

CHAPTER 140

(House Bill No. 636—By Mr. Morris)

AN ACT authorizing and empowering the county court of Ritchie county, West Virginia, to lay special levies for the building of roads and bridges in said county.

[Passed April 21, 1925; in effect from passage. Became a law without the approval of the Governor.]

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|---|---|
| <p>Sec.</p> <p>1. Court authorized and empowered to lay levy for roads and bridges; time and rate limited; roads and bridges to be specified.</p> <p>2. Levy for grading, draining or</p> | <p>Sec.</p> <p>paving county-district or state roads.</p> <p>3. Levies same time and manner as other levies, but in addition to all other levies.</p> |
|---|---|

Be it enacted by the Legislature of West Virginia:

Section 1. Subject to the limitations of the constitution of
2 West Virginia, the county court of Ritchie county is hereby
3 authorized and empowered, upon the filing with the clerk
4 thereof of a petition signed by not less than thirty-five per cent
5 of the legal voters within any magisterial district of the said
6 county of Ritchie (such percentage to be based on the total
7 vote for governor at the last preceding general election), pray-
8 ing for the construction of any road, or roads, or any bridge,
9 or bridges, in said district, to lay a special levy each year for
10 a period of years not exceeding six, and not to exceed thirty
11 cents on each one hundred dollars valuation of all the assessed

12 property in said district. Said petition shall contain a state-
 13 ment specifying the road or roads or bridge or bridges to be
 14 built and shall specify the route or routes of any proposed
 15 road or roads. Funds raised under this section of this act may
 16 be spent in grading, draining or paving any state road in said
 17 district, as well as upon county-district roads, *provided*, the
 18 expenditure in this manner is specified in the petition for said
 19 special levy or levies.

Sec. 2. The county court of Ritchie county is hereby author-
 2 ized and empowered to lay a special levy each year for a period
 3 of years not to exceed six, not exceeding twenty-five cents each
 4 year on each one hundred dollars valuation of assessed property
 5 in said county, for the purpose of grading, draining or paving
 6 the county-district roads in said county, or at the discretion of
 7 the court in grading, draining or paving any state road in said
 8 district.

Sec. 3. Levies authorized under this act shall be laid at the
 2 same time, and in the same manner as other levies provided for
 3 by the general law of this state. The powers and authority
 4 granted and conferred by this act are in addition to all general
 5 provisions of law, relating to the laying of levies.

CHAPTER 141

(House Bill No. 683—By Mr. Hundley)

AN ACT to authorize the magisterial district of Charleston, Kana-
 wha county, outside of the municipality of Charleston, to
 become indebted by the issuance and sale of bonds.

[Passed April 15, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. May issue bonds.
2. Under general law.

Be it enacted by the Legislature of West Virginia:

Section 1. The magisterial district of Charleston, lying out-
 2 side of the municipality of Charleston, in the county of Kana-
 3 wha, by and through the county court of said Kanawha county,
 4 may, as though the same were a separate magisterial district,
 5 issue and sell its bonds, in the manner and subject to the limita-
 6 tions and conditions contained in chapter fourteen of the acts
 7 of the legislature of West Virginia, one thousand nine hun-
 8 dred and twenty-three.

Sec. 2. The provisions of said chapter fourteen shall in all 2 respects apply to such bonds, and their authorization, issuance 3 and sale, and the levy to provide funds for the payment of the 4 interest upon such bonds and the principal thereof at maturity, 5 except that such levy shall be laid by the county court of Kana- 6 wha county only upon the taxable property in said Charleston 7 magisterial district outside of the municipality of Charleston.

CHAPTER 142

(House Bill No. 686—By Mr. Heaberlin)

AN ACT authorizing the City of Beckley to lay a special levy of five cents on each one hundred dollars valuation of all real estate and personal property therein for a period of ten years and providing for the expenditure thereof.

[Passed April 20, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Levy authorized.

Be it enacted by the Legislature of West Virginia:

Section 1. That the City of Beckley, a municipal corporation 2 of the county of Raleigh and state of West Virginia, be and 3 it is hereby empowered and authorized, through its common 4 council, to lay a special levy of five cents on each one hundred 5 dollars valuation of all real estate and personal property 6 therein for a period of ten years, beginning the first day of 7 July, one thousand nine hundred and twenty-five, for the pur- 8 pose of purchasing a municipal building or for the purpose of 9 purchasing sufficient ground and the construction of such 10 building thereon in said city. The money derived from such 11 levy shall be a special fund and shall only be used for the pur- 12 pose herein authorized. *Provided, however,* that no commis- 13 sions shall be paid for the collection of the levies herein 14 authorized.

CHAPTER 143

(House Bill No. 690—By Mr. Van Sickle)

AN ACT to authorize the county court of Preston county to lay a special road levy for the year one thousand nine hundred and

twenty-six, one thousand nine hundred and twenty-seven, one thousand nine hundred and twenty-eight, one thousand nine hundred and twenty-nine, one thousand nine hundred and thirty and one thousand nine hundred and thirty-one for the purpose of securing right of way, and constructing roads in Valley district of Preston county, West Virginia.

[Passed April 22, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. County court authorized to levy for roads; levy in addition to all other levies.

Sec.

2. Roads to be constructed, how; fund, how kept; advisory representative.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of securing right of way, grading, 2 draining and hard surfacing and to cover the expenditures on 3 the following proposed hard surface road improvements, to- 4 wit:

5 Project No. 1: Beginning at the state road in the said 6 town of Reedsville, at W. G. Cobun's store; thence along the 7 Tunnelton and Ice's ferry pike, south from said town of Reeds- 8 ville, by way of Brown's mill, toward Gladesville.

9 Project No. 2: Beginning at said state road in said town 10 of Reedsville, at W. G. Cobun's store, and extending westward 11 along the Morgantown and Kingwood pike, toward the Monon- 12 galia and Preston county line.

13 Project No. 3: Beginning at a point in said state highway 14 in the northern part of the town of Masontown, where the said 15 state highway joins the Tunnelton and Ice's ferry pike; thence 16 north toward Rohr and toward the Monongalia and Preston 17 county line.

18 Project No. 4: Beginning at said state road, near the bank 19 of Masontown, in said town of Masontown; thence along the 20 Bull Run road, east, toward Cheat river bridge.

21 Project No. 5: Beginning at said state road in said town 22 of Masontown, near the said bank of Masontown; thence along 23 the road toward Herring, by way of the I. N. Roby farm.

24 The county court of Preston county is hereby authorized to 25 lay a special levy on all taxable property within Valley dis- 26 trict of said county of fifty cents on the one hundred dollars' 27 valuation of said property as assessed for regular state, county 28 and district taxation, for each of the years one thousand nine 29 hundred and twenty-six, one thousand nine hundred and twenty- 30 seven, one thousand nine hundred and twenty-eight, one thou-

31 sand nine hundred and twenty-nine, one thousand nine hundred
 32 and thirty and one thousand nine hundred and thirty-one; which
 33 said levy shall be in addition to all other levies for said purposes
 34 in said district. The funds to be raised by said levy shall be
 35 expended at the discretion of the county court on any of the said
 36 five projects as it may deem wise and proper.

37 Except on Project No. 4 the county court may appropriate
 38 sufficient funds out of the receipts from said levy to construct
 39 and pave the road beginning at the intersection near John
 40 Nicholson's residence, east, to the cement bridge near Clyde
 41 Strahan's residence.

Sec. 2. Said roads shall be constructed according to such
 2 plans and specifications as said county court may decide upon,
 3 and all moneys realized from said special levy shall be kept in
 4 a separate fund and a separate account kept of the receipts and
 5 disbursements of the same. The citizens served by each of said
 6 projects may select a representative to advise with the county
 7 court in the expenditure of the moneys raised by such levy, and
 8 all expenditures to be made by the county court of Preston
 9 county.

CHAPTER 144

(Senate Bill No. 34—By Mr. Hugus)

AN ACT authorizing and empowering the board of commissioners
 of the county of Ohio to issue bonds of the county and to
 lay special levies for the building of a tuberculosis sani-
 tarium in Ohio county, and authorizing the laying of levies
 for the payment of any such bonds, principal and interest,
 and providing for the maintenance of said sanitarium, the
 same being an emergency measure.

[Passed January 24, 1925; in effect from passage. Became a law without the
 approval of the Governor.]

Sec.

1. Construction of tuberculosis sani-
 tarium, if authorized by voters;
 petition for the same; specifica-
 tion and cost; call bond election.
2. Holding election; registration of
 voters; special election; form
 of ballot; issuance of bonds;
 when payable; how expended.
3. Special levy for constructing sani-
 tarium; specifications; discretion

Sec.

- of board of commissioners;
 county clerk to post notices of
 special levy.
4. Special maintenance levy.
5. Rules and regulations for admis-
 sance to sanitarium; manage-
 ment.
6. Limits of powers and duties con-
 ferred by this act.
7. Power to condemn property.

Be it enacted by the Legislature of West Virginia:

Section 1. Subject to the limitations of sections seven and eight of article ten of the constitution of West Virginia, the board of commissioners of the county of Ohio, upon the filing with the clerk thereof of a petition signed, if the proposition submitted be a special sanitarium fund levy, by not less than ten per cent of the legal voters within the county of Ohio, or if the proposition submitted be the issuance of bonds, said petition shall be signed by not less than twenty per cent of the legal voters within the county of Ohio (in either of said cases such percentage of voters to be based on the total vote cast for governor at the last preceding general election) praying for the construction of a tuberculosis sanitarium in Ohio county, the board of commissioners of Ohio county shall submit the proposition of the issuance of bonds of the county of Ohio, or for the authorization of a special sanitarium fund levy on all the assessed property in said Ohio county for a period of years not to exceed five, to the legal voters of the county of Ohio. Such petition shall contain a statement specifying the sanitarium to be built and shall specify in general the site and the general construction and materials to be used in building same and a prayer for the submission of a sanitarium bond proposition or a special sanitarium fund levy proposition to provide funds for such sanitarium. Upon the filing of such petition with the clerk of the said board of commissioners said board shall without delay instruct the county engineer, or some other engineer specially employed by it, to make an investigation and to report to said board a plan of construction and an estimate of the probable cost of the proposed sanitarium; upon approval of such proposed plan and estimate of any such proposed sanitarium by the board of commissioners, said board shall submit to the legal voters of the county a proposition for such issue and sale of bonds or for such special sanitarium fund levy, as the petition may request. The order of said board of commissioners submitting such proposition shall contain a summary of the engineer's report herein provided for setting forth the estimated cost of the proposed sanitarium, the valuation of all the property of the county of Ohio as shown by the last assessment thereof for purposes of taxation, and the existing county bonded indebtedness. Such

40 order shall specify that the money to be raised by the sale of
41 bonds, or laying of a special sanitarium fund levy to be appro-
42 priated, shall be for a tuberculosis sanitarium, and shall provide
43 that no part of the proceeds of such bonds or levy shall be used
44 for any other purpose than the sanitarium specified in such
45 order, and the acquisition and construction of a roadway to such
46 sanitarium. And such order shall contain such other appro-
47 priate matters as are required by chapter fourteen of the acts of
48 the legislature of one thousand nine hundred and twenty-three,
49 for the issue of bonds. The said board of commissioners of the
50 county of Ohio shall cause a vote to be taken throughout the
51 county of Ohio upon the question of such bond issue or such spe-
52 cial levy at the succeeding general election for state and county
53 offices, or at any special election which is first held in the county
54 after such vote is ordered taken; or, if the petition so specifies,
55 the said board shall order a special election for the purpose
56 within sixty days from the date of filing of the engineer's report
57 herein provided for; but such order for any election on the ques-
58 tion of a bond issue or a special sanitarium fund levy together
59 with a summary of the engineer's report herein provided for,
60 and other matters therein contained, shall be published through-
61 out the said county in the following manner:

62 The clerk of the said board of commissioners shall cause
63 as many copies of such order to be made or printed as may be
64 necessary, and sign the same; he shall forthwith post one in a
65 conspicuous place in his office, and one at the front door of the
66 court house. The board of commissioners shall direct a copy
67 to be published once each week for four consecutive weeks
68 prior to the date of the said election in two newspapers of
69 opposite politics, if such there be, published in said county of
70 Ohio.

Sec. 2. A vote shall thereupon be taken and the result ascer-
2 tained under the regulations prescribed for a general election of
3 county and district officers; or, if the vote is taken at a special
4 election ordered for the purpose, the same shall be held by the
5 commissioners appointed for the purpose by the said board of
6 commissioners of the county of Ohio at the time said election is
7 ordered, and the result shall be ascertained and certified accord-
8 ing to the regulations prescribed by law for ascertaining and cer-
9 tifying the election of county and district officers; *provided, how-*
10 *ever,* the same shall be held and conducted by single election

11-15 boards. Provisions respecting the registration of voters in any
 16 such bond or special sanitarium fund levy election shall be those
 17 set out in chapter fourteen of the acts of the Legislature of one
 18 thousand nine hundred and twenty-three, *provided, however,*
 19 that if any special election at which any such bond issue or spe-
 20 cial sanitarium fund levy is submitted, is held prior to January
 21 first, one thousand nine hundred and twenty-six, no registration
 22 of voters shall be required.

23 Should the proposition of issuing said bonds, or levying such
 24 special sanitarium fund levy be submitted to a vote at a special
 25 election, such election shall be held in accordance with chapter
 26 fourteen of the acts of the Legislature of one thousand nine
 27 hundred and twenty-three, excepting as to the provisions here-
 28 inbefore set out with respect to single election boards and the
 29 registration of voters; and *provided further, however,* that the
 30 submission of any such bond proposition or special sanitarium
 31 fund levy proposition may be made at any special election at
 32 which any other proposition may be submitted to the voters of
 33 the county. The ballots used at any such bond issue election,
 34 whether general or special election, shall be in substantially the
 35 following form :

36 "Shall the county of Ohio, West Virginia, incur debt and
 37 issue bonds to the amount of.....dollars, to
 38 run not more than thirty years from the date thereof, with in-
 39 terest not exceeding the rate of five per centum per annum, for
 40 the purpose of building a tuberculosis sanitarium, and levy taxes
 41 sufficient to pay the interest on, and the principal of said bonds

42 Yes

43 No

44 Notice to Voters: To vote in favor of the proposition submit-
 45 ted on this ballot place an X mark in the square after the word
 46 "Yes." To vote against it place a similar mark after the word
 47 "No."

48 If the proposition submitted be that of authorizing a special
 49 sanitarium fund levy, the ballot shall be changed accordingly, so
 50 as to set forth the total amount to be raised by such levy, the
 51 rate of annual levy, the maximum number of annual levies to be
 52 laid, and such other appropriate changes; but otherwise any spe-
 53 cial sanitarium fund levy election shall be held in the same man-
 54 as if for a bond issue.

55 . If three-fifths of all the votes cast for and against the same
56 shall be in favor of the proposition to incur debt and issue nego-
57 tiable bonds, the board of commissioners of the county of Ohio
58 shall, by resolution in case the matter submitted was a bond
59 issue, authorize the issuance of such bonds in an amount not
60 exceeding the amount stated in the proposition; fix the date
61 thereof; set forth the denominations in which they shall be is-
62 sued, which denominations shall be one hundred dollars or mul-
63 tiples thereof; to determine the rate of interest which the bonds
64 shall bear, the rate of interest shall not exceed five per
65 centum per annum, payable semi-annually; describe the medium
66 with which the bonds shall be payable; require that the bonds
67 shall be made payable at the office of the treasurer of the state
68 of West Virginia, and at such other place or places as such
69 board of county commissioners may appoint; provide for a suf-
70 ficient levy to pay the annual interest on the bonds and the prin-
71 cipal at maturity; fix the times within the maximum period as
72 contained in the proposition submitted to vote, when the bonds
73 shall become payable, and prescribe the form for executing the
74 bonds authorized.

75 Said bonds shall be made payable in annual installments, be-
76 ginning not more than two years after the date thereof, and the
77 amount payable in each year may be so fixed that when the an-
78 nual interest is added to the principal amount to be paid, the
79 total amount payable in each year in which part of the principal
80 is payable shall be as nearly equal as practicable.

81 The said board of commissioners of the county of Ohio shall
82 have authority to issue, upon a favorable vote as hereinbefore
83 provided, and shall issue and sell, as provided by chapter four-
84 teen of the acts of the Legislature of one thousand nine hundred
85 and twenty-three, and in accordance with said proposition sub-
86 mitted to any special or general election, said sanitarium bonds
87 for and in the name of said county, all in accordance with chap-
88 ter fourteen of the acts of the Legislature of one thousand nine
89 hundred and twenty-three, and the provisions of this act. All
90 bonds issued pursuant to this act shall be signed by the pres-
91 ident of the board of commissioners of the county of Ohio and
92 countersigned by the clerk of said board, the seal of the county
93 shall be affixed to said bonds; interest coupons shall be signed
94 by the *fac simile* signature of such officers. Provision may be

95 made for the registration of the bonds or coupons, or both, as
96 the board shall determine.

97 If it shall appear by said election that three-fifths of all the
98 votes cast for and against the proposed special sanitarium fund
99 levy, if such is submitted instead of a bond issue, shall be in
100 favor of the proposition to levy any such special sanitarium
101 fund levy, the said board of commissioners of the county of
102 Ohio shall, by resolution, then have authority to lay the levy
103 as voted in the name of the county, and such annual levies
104 thereafter as may by such vote be authorized.

105 The proceeds of any such bond issue or of any such special
106 sanitarium fund levy shall constitute a fund to be expended by
107 the board of commissioners of the county of Ohio for the pur-
108 pose specified in the order of said board under which the vote
109 on any such bond issue or any special sanitarium fund levy
110 was taken, and for no other purpose; *provided, however*, that
111 a portion of any such fund may be used for the purpose of buy-
112 ing or leasing land, or securing a right of way over land in
113 order to build a road from any public road to any such sani-
114 tarium constructed by virtue of this act, and for the purpose
115 of maintaining any such road if constructed. After the issu-
116 ance and sale by said board of commissioners of any such bonds
117 as are mentioned herein, the said board shall, in accordance
118 with chapter fourteen of the acts of the Legislature of one
119 thousand nine hundred and twenty-three, each year thereafter
120 lay a levy sufficient to pay the annual interest on said bonds
121 and the bonds falling due in each year. Or, if the proposition
122 submitted by a special sanitarium fund levy and approved by a
123 vote as aforesaid, the board of county commissioners shall lay
124 such annual levies as are authorized by the vote of the people
125 at any special sanitarium fund levy election, as hercinbefore
126 provided for. Such levy shall be in addition to all other levies
127 allowed by law on all the taxable property in the county, and
128 shall be levied and collected in the same manner as the general
129 taxes of the county.

130 The said board of county commissioners shall do all such
131 things in reference to the aforesaid petition, order, election,
132 resolution, issue, execution, sale of bonds, the laying of levies
133 and all other matters with reference to said bonds as may be
134 required under chapter fourteen of the acts of the Legislature
135 of one thousand nine hundred and twenty-three.

Sec. 3. Legal voters of the county of Ohio numbering not
2 less than twenty-five per cent of the legal voters of said
3 county (such percentage to be based on the total vote cast for
4 governor at the last preceding election) may sign a petition
5 praying for the building of a tuberculosis sanitarium in the
6 county of Ohio and praying that the board of commissioners
7 of the county of Ohio lay a special levy in addition to all
8 other levies allowed by law, on all the taxable property in
9 the county of Ohio, of not to exceed fifteen cents on each one
10 hundred dollars assessed valuation for the year the levy is
11 laid, for a period of years not to exceed five, for the purpose
12 of building any such tuberculosis sanitarium as is described
13 in such petition, and file such petition with the clerk of the
14 board of commissioners of the county of Ohio. Such petition
15 shall contain a statement specifying that a tuberculosis sani-
16 tarium shall be built and shall also contain a statement speci-
17 fying the general character and construction of any such pro-
18 posed sanitarium and the material or materials of which the
19 same shall be constructed, and shall specify the site and the
20 general construction and materials to be used in building
21 same, and a prayer for the laying of a special levy in addition
22 to all other levies allowed by law, on all the taxable property
23 in the county of Ohio, of not to exceed fifteen cents on each
24 one hundred dollars assessed valuation for the year the levy
25 is laid for a period of years not to exceed five, for the purpose
26 of building any such tuberculosis sanitarium. Upon the filing
27 of such petition with the clerk of the said board of commis-
28 sioners, the said board of commissioners shall determine
29 whether the sanitarium prayed for shall be erected, which
30 shall be in the discretion of said board, and should the board
31 elect to erect the sanitarium prayed for, then the board shall
32 without delay instruct the county engineer, or some other en-
33 gineer specially employed by it, to make an investigation and
34 to report to said board a plan of construction and an esti-
35 mate of the probable cost of the proposed tuberculosis sani-
36 tarium and upon approval of such proposed plan estimate by
37 the said board of commissioners, the said board shall enter
38 an order setting forth a summary of the engineer's report
39 herein provided for, and also setting forth the probable cost
40 of the proposed sanitarium, the kind and class of work and
41 materials to be used, and the valuation of all taxable prop-

42 erty of the county of Ohio as shown by the last assessment
43 thereof for purposes of taxation; such order shall specify
44 the sanitarium for which the money to be raised by the laying
45 of a special levy is to be appropriated, and shall provide that
46 no part of the proceeds of such special levy shall be used for
47 any other purposes than the tuberculosis sanitarium specified
48 in the order. The clerk of the said board of commissioners
49 shall cause as many copies of such order to be made or printed
50 as may be necessary, and shall sign the same; he shall forth-
51 with post one in a conspicuous place in his office, and one at
52 the front door of the court house. At the time of laying
53 county and district levies next following the entering of the
54 aforesaid order by the board of commissioners, the said board
55 shall lay a special levy on all taxable property in Ohio county,
56 in addition to all other levies allowed by law, of not to ex-
57 ceed fifteen cents on each one hundred dollars assessed valua-
58 tion, to provide funds for the building and construction of
59 the tuberculosis sanitarium described in the aforesaid peti-
60 tion and order, and, if the amount of money provided by said
61 special levy be not sufficient to carry out and complete such
62 proposed tuberculosis sanitarium as is mentioned in the afore-
63 said petition and order, then the said board of commissioners
64 shall, at the time of laying county and district levies, lay a
65 similar special levy in addition to all other levies allowed by
66 law, each consecutive year thereafter for so many years but
67 not to exceed five as may be necessary to provide sufficient
68 funds for the building and completion of any such proposed
69 tuberculosis sanitarium.

Sec. 4. In case a sanitarium is erected under the provisions
2 of this act, either by reason of the adoption by the voters of
3 the county of Ohio of a sanitarium bond proposition, or
4 special sanitarium fund levy proposition, as provided in the
5 first and second sections hereof, or by reason of the laying of
6 special levies on the taxable property in Ohio county without
7 the same having been submitted to the voters of said county,
8 as provided for in the third section of this act, the board of
9 commissioners of the county of Ohio shall levy annually not
10 exceeding four cents on each hundred dollars of the assessed
11 valuation of the property within the county according to the
12 last assessment thereof for state and county purposes, in order

13 to provide for the maintenance of said sanitarium, and any
14 road constructed for the purpose of providing an approach to
15 said sanitarium.

Sec. 5. The board of commissioners of Ohio county may
2 make such rules and regulations for the admittance of pa-
3 tients as they deem best, and shall manage said sanitarium
4 and employ such persons as may be necessary properly to
5 operate said sanitarium for the purposes for which it is in-
6 tended. Said board shall have the authority to appoint from
7 the citizens of Ohio county, an advisory board to consult and
8 advise with the board of commissioners in the management
9 and operation of any such sanitarium; but the members of
10 such advisory board shall serve without compensation and
11 shall act in an advisory capacity only.

Sec. 6. The powers and authority granted and conferred
2 by this act, both as to the submission to the voters of the
3 county of Ohio, of a sanitarium bond proposition, or a special
4 sanitarium fund levy proposition, as provided for in the first
5 and second sections hereof, and as to the laying of special
6 levies on the taxable property in Ohio county without the
7 same having been submitted to the voters of said county, as
8 provided for in the third section of this act, are in addition to
9 all general provisions of law relating to the issuance of county
10 bonds and the laying of levies; *provided, however*, that the
11 authority hereby given to the board of county commis-
12 sioners of Ohio county to construct and maintain a tubercu-
13 losis sanitarium, either by a bond issue or the laying of a
14 special sanitarium fund levy, as provided by the first and
15 second sections of this act, or by the laying of a special levy,
16 as provided in the third section of this act, is limited to the
17 construction and maintenance of one tuberculosis sanitarium
18 only.

Sec. 7. Upon the authorization of any such tuberculosis
2 sanitarium, under any of the provisions of this act, said board
3 of county commissioners shall have authority to institute con-
4 demnation proceedings as provided for under the general
5 laws of this state for the purpose of acquiring land upon
6 which to erect any such tuberculosis sanitarium, and to con-
7 struct a road to said sanitarium.

CHAPTER 145

(Senate Bill No. 149—By Mr. Kee)

AN ACT empowering and authorizing the county court of Mercer county to appropriate money for the purchase of land and construction of buildings for a permanent Four-H camp and exposition in such county.

[Passed March 30, 1925; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Purchase land for 4-H camp and exposition. 2. Non-stock and non-profit corpora-</p>		<p>Sec. tion. 3. Exempt from taxation; inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That the county court of Mercer county be empowered to make special appropriations for permanent Four-H camps, as follows:

Section 1. The county court of Mercer county in this state 2 is hereby empowered and authorized to appropriate money from 3 the county funds, not to exceed the sum of ten thousand 4 dollars, for the purchase of land and the construction of build- 5 ings for a permanent Four-H camp and exposition in such 6 county.

Sec. 2. The title to such Four-H camp and exposition and 2 the management and control shall lie with a non-stock, non- 3 profit sharing corporation organized under the laws of West 4 Virginia with by-laws approved by said county court and by 5 the director of agricultural extension of West Virginia univer- 6 sity.

Sec. 3. Such Four-H camp and exposition so owned shall be 2 exempt from taxation under the same conditions as educational, 3 fraternal and other community properties are exempted under 4 the provisions of chapter twenty-nine, section fifty-seven of 5 Barnes' West Virginia code.

All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 146

(House Bill No. 7—By Mr. Rine, by request)

AN ACT to authorize the county court of the county of Marshall to establish and maintain a county law library.

[Passed March 19, 1925; in effect from passage. Approved by the Governor.]

Sec. 1. Marshall county law library established; location. 2. County court to equip. 3. County court to appoint committee to purchase library; rules and	Sec. regulations for government; librarian. 4. Loans or gifts to; sale or exchange of books.
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Be it enacted by the Legislature of West Virginia:

Section 1. The county court of the county of Marshall is hereby authorized to establish and maintain a law library for the use of the judge of the court of said county, all attorneys at law practicing in said court, and all public officers of said county or any subdivision thereof, and municipalities therein. Said library shall be designated as "The Marshall County Law Library," and shall be located in the courthouse of said county.

Sec. 2. The said county court of the county of Marshall may, within its discretion, purchase law books, law periodicals, stationery, supplies, furniture and equipment for said library and for said purpose shall have authority to expend such money as may be necessary to purchase the foregoing.

Sec. 3. The said county court, if it establishes such library, shall appoint a committee of three lawyers to purchase said library, one of whom shall be the judge of the circuit court of said county, and no law books shall be purchased for said library except upon the order of said committee; and the said committee shall have the power to make and enforce all rules and regulations that may be necessary for the government of the said library and the use thereof. The clerk of the circuit court of said county shall be the librarian.

Sec. 4. The said county court shall have the authority to receive for said library any books or other property by loan, gift or bequest. The said county court by and with the consent of the committee provided for in section three of this act shall have authority to sell, exchange or otherwise dispose of any books that it may deem not needful for said library.

CHAPTER 147

(House Bill No. 67—By Mr. Davis)

AN ACT creating the office of county detective in the county of Cabell.

[Passed March 18, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec.

1. County detectives authorized; supervision prosecuting attorney; qualifications; tenure; compen-

Sec.

sation; how removed.
2. General powers and duties.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created in Cabell county, the office of county detective, to operate under the supervision and in connection with the office of prosecuting attorney, and said county detective shall be of good moral character, qualified by education and experience to investigate crimes and misdemeanors, and shall be appointed by the prosecuting attorney, with the approval of the county court, to hold office during the time for which the prosecuting attorney is elected or appointed, or shall be removed by the prosecuting attorney and county court, and he shall receive for his services two thousand dollars per annum to be paid out of the county treasury of the county of Cabell in the same manner and at the same time as the salaries of other county officers are paid, and shall be allowed such necessary expenses as are incurred by him in performing his duties out of the county, but he shall file with the county court a sworn statement of the expenses incurred by him.

Sec. 2. Said county detective shall have the same general powers as the sheriff to serve processes and make arrests, and he shall faithfully investigate all cases assigned to him by the prosecuting attorney, and make report thereof in writing for the use of the prosecuting attorney, but before entering upon his duties as such county detective he shall take the several oaths prescribed by law for county officers, and shall give bond with approved sureties in the penalty of three thousand five hundred dollars, conditioned according to law for the faithful performance of his duties as such county detective, and he shall in all respects be subject to the provisions and penalties of section nineteen, of chapter one hundred and forty-seven of Barnes' code of one thousand nine hundred and twenty-three.

This act shall take effect from passage.

CHAPTER 148

(House Bill No. 215—By Mr. Austin)

AN ACT to authorize the county court of Monongalia county to construct, maintain and operate a sanitarium, preventorium or camp for the care and treatment of tubercular patients of said county.

[Passed April 18, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

1. Sanitarium authorized.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Monongalia county, West Virginia, is hereby authorized to expend such sums of money as may be necessary for the construction, maintenance and operation of a sanitarium, preventorium or camp for the care and treatment of tubercular patients in said county.

CHAPTER 149

(House Bill No. 330—By Mr. Thompson)

AN ACT to amend and re-enact chapter one hundred and twenty-seven of the acts of one thousand nine hundred and twenty-three, empowering and authorizing the county court of Harrison county to appropriate money for the maintenance of "The Children's Home of Harrison County" and for the support and maintenance of the abandoned, neglected and indigent children of said county, kept in said home, and to lay an annual levy to provide revenue therefor, and to require the superintendent, manager or officers of said home to give bond for the proper use and application of such appropriation, and to require statements showing the expenditure of such appropriation and settlements with the county court.

[Passed March 31, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. County court authorized to appropriate money for maintenance; may levy for same; shall appoint

Sec.

superintendent.
2. County court shall administer. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and twenty-seven of the acts of one thousand nine hundred and twenty-three empowering and author-

izing the county court of Harrison county to appropriate money for the maintenance of "The Children's Home of Harrison County" be amended and re-enacted so as to read as follows:

Section 1. The county court of Harrison county is hereby
2 authorized and empowered to appropriate money to be used and
3 applied on the cost of maintaining 'the children's home,' a
4 non-stock and non-profit sharing corporation, of Clarksburg,
5 in which dependent, neglected, abandoned, homeless, unfortun-
6 ate and delinquent children of said county are kept, maintained
7 and educated. The county court of said county, at each annual
8 levy period, may lay a levy on all taxable property, both real
9 and personal, in said county, not to exceed one-half of one per
10 cent on each one hundred dollars valuation thereof, to provide
11 the money for said appropriation, and said county court may
12 appropriate for the maintenance of said home all, or so much of
13 the money or funds so derived, as shall be deemed necessary
14 and proper to keep, maintain and educate said children while
15 they remain in said home. County court shall appoint a super-
16 intendent for said home.

Sec. 2. Said appropriation shall be paid out and expended
2 under the direction and supervision of said county court, and
3 said county court may require the said 'the children's home'
4 to execute a bond with good and sufficient surety, and in such
5 amount as may be deemed necessary, conditioned that the super-
6 intendent or other person or persons in charge of said home
7 shall faithfully perform the duties in connection therewith and
8 that all of said appropriation, and every part thereof, shall be
9 faithfully and honestly applied for the use and benefit of said
10 children, and in conformity with the purposes of the charter of
11 said home, that is, for the care, protection, training and educa-
12 tion of neglected, abandoned, homeless, unfortunate, or delin-
13 quent children, and to locate and find proper and suitable homes
14 for such children in private homes secured for such purposes;
15 said bond shall be approved by said county court and shall be
16 kept as a record in the office of the clerk thereof. If any part
17 of said appropriation so raised by taxation in any one year shall
18 not be used, then all such part thereof as may be unexpended,
19 shall be returned to the county treasury. Said home, shall by
20 its proper officers, make an annual verified statement and set-
21 tlement with the county court, showing when, where, and how
22 said funds or appropriation have been applied and disbursed.

23 Before any of said money so appropriated may be expended
24 for keeping, maintaining and educating any child as aforesaid,
25 a thorough investigation shall be made of the necessity of such
26 action, and to that end the expenses of such investigation, not
27 to exceed the sum of five dollars in each case, may be paid out of
28 said fund. If, upon such investigation, it clearly appears that
29 any child so investigated has a father who is able and capable
30 to keep, maintain and educate such child and is failing and neg-
31 lecting so to do and thereby violating any of the laws of this
32 state, report of such facts shall be made to the prosecuting at-
33 torney of said county.

34 All acts and parts of acts inconsistent herewith are hereby
35 repealed.

CHAPTER 150

(House Bill No. 338—By Mr. Crawford)

AN ACT to provide for a soldiers' memorial in Randolph county,
West Virginia.

[Passed April 23, 1925: In effect 90 days from passage. Approved by the Governor.]

Sec.

1. Soldiers' memorial authorized.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Randolph county shall have
2 power to provide for the erection and maintenance in said
3 county, at the court house thereof of a suitable memorial to
4 the soldiers, sailors and marines of said county who served in
5 the army, navy or marine corps of the United States during
6 the world war. The cost of said memorial shall not exceed the
7 sum of two thousand dollars, and to defray such cost said court
8 shall lay an extra levy therefor on the assessed valuation of the
9 property in said county.

CHAPTER 151

(House Bill No. 571—By Mr. Cooke)

AN ACT to authorize the county court of Jefferson county to ap-
propriate money to assist in organization and maintenance of
volunteer fire department companies.

[Passed April 17, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Aid to volunteer fire department companies.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Jefferson county is hereby authorized and empowered to appropriate not to exceed the sum of one thousand five hundred dollars annually, payable out of the general county fund toward the organization, maintenance and support of volunteer fire companies in the several municipal corporations of Jefferson county, allotting such fund in an equitable manner, between the different municipalities, as it may determine.

CHAPTER 152

(House Bill No. 627—By Mr. Morris, by request)

AN ACT to authorize and direct the board of dental examiners to issue a license to Alpha N. Elliott and J. P. Lockhart to practice dentistry.

[Passed April 20, 1925; in effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.

1. Licensing Alpha N. Elliott and J. P. Lockhart to practice dentistry.

Be it enacted by the Legislature of West Virginia:

Section 1. That, whereas, Alpha N. Elliott, of Pennsboro, and J. P. Lockhart, of Clendenin, West Virginia, who, by inadvertence and oversight failed to make the application to the state board of dental examiners to obtain the certificate provided for by chapter sixty-nine of the acts of one thousand nine hundred and seven, and chapter thirty-two of the acts of one thousand nine hundred and fifteen, as amended, within the time provided by aforesaid acts to make application to said board, and furnish satisfactory proof that they were engaged in such practice of dentistry in this state, before the passage of said law regulating the practice of dentistry, and that they have been continuously engaged in the practice thereof, under a regular licensed dentist.

Therefore, be it enacted that the state board of dental examiners be, and the same hereby are authorized and directed to issue a license to practice dentistry to Alpha N. Elliott and J. P. Lockhart.

Resolutions

SENATE JOINT RESOLUTION NO. 1

(Adopted January 27, 1925)

“Providing for the appointment of a joint committee of the Legislature to examine and report upon the condition of the State Penitentiary at Moundsville.”

WHEREAS, Section eighteen of Chapter one hundred and sixty-three of the Code of West Virginia provides: “Biennially the condition of the penitentiary shall be examined and reported upon by a joint committee of the Legislature composed of two from the Senate and three from the House of Delegates to be appointed especially for the purpose at each regular session of the Legislature by the President of the Senate and Speaker of the House of Delegates;” and,

WHEREAS, during the past several years there have appeared in the newspapers charges of mismanagement and complaints of conditions existing in this institution, therefore,

Resolved by the Legislature of West Virginia:

That a joint committee of the Legislature consisting of two members of the Senate, to be appointed by the President of the Senate, three members of the House, to be appointed by the Speaker of the House, be appointed and authorized to make an inquiry into the condition of the penitentiary, as required by law, and to investigate charges and complaints made against existing conditions in that institution.

Said committee shall have power to employ such clerical assistance as it shall deem necessary, in the proper and efficient discharge of its duties, and is hereby vested with power and authority to administer oaths, compel the attendance and testimony of witnesses, and the production of such books, papers and accounts as the committee may deem necessary to make a thorough examination into the condition of said institution.

SENATE JOINT RESOLUTION NO. 2

(Adopted April 21, 1925)

“Proposing an amendment to section one of article ten of the constitution of this state.”

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That section one of article ten of the constitution of West Virginia be amended so as to read as follows:

“Subject to the exception in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except, that money, notes, accounts receivable and bonds shall be taxed at a rate not to exceed fifty cents on each one hundred dollars of the true and actual value thereof, and the revenue derived from this source shall be apportioned by the legislature among the levying units of the state in proportion to the levy laid in said units upon real and other personal property, but property used for educational, literary, scientific, religious or charitable purposes and all cemeteries and public property, may by law, be exempted from taxation. The legislature shall have power to tax, by uniform and equal laws, all privileges and franchises of persons and corporations.”

SENATE JOINT RESOLUTION NO. 5

(Adopted April 21, 1925)

“Proposing an amendment to section fifty-one of article six of the constitution of this state.”

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House agreeing thereto:

That the following be and the same is hereby proposed as an amendment to the constitution of this state, to-wit:

Section 51. The legislature shall not appropriate any money out of the treasury except in accordance with the following provisions:

Sub-Section A

Every appropriation bill shall be either a budget bill or a supplementary appropriation bill as hereinafter mentioned.

Sub-Section B

First. Within ten days after the convening of the legislature, unless such time shall be extended by the legislature for the session at which the budget is to be submitted, the governor shall submit to the legislature two budgets, one for each ensuing fiscal year. Each budget shall contain a complete plan of proposed expenditures and estimated revenues for the particular fiscal year to which it relates; and shall show the estimated surplus or deficit of revenues at the end of the year. Accompanying each budget shall be a statement showing (1) the revenues and expenditures for each of the two fiscal years next preceding; (2) the current assets, liabilities, reserves and surplus or deficit of the state; (3) the debts and funds of the state; (4) an estimate of the state's financial condition as of the beginning and end of each of the fiscal years covered by the two budgets above provided; (5) any explanation the governor may desire to make as to the important features of any budget and any suggestions as to methods for the reduction or increase of the state's revenue.

Second. Each budget shall be divided into two parts, and the first part shall be designated "Governmental appropriations" and shall embrace an itemized estimate of the appropriations: (1) for the legislature as certified to the governor in the manner hereinafter provided; (2) for the executive department; (3) for the judiciary department, as provided by law, certified to the governor by the auditor; (4) to pay and discharge the principal and interest of any debt of the state of West Virginia created in conformity with the constitution, and all laws enacted in pursuance thereof; (5) for the salaries payable by the state under the constitution and laws of the state; (6) for the aid of public schools in conformity with the laws of the state; (7) for such other purposes as are set forth in the constitution and laws made in pursuance thereof.

Third. The second part shall be designated "General appropriations," and shall include all other estimates of appropriations.

The governor shall deliver to the presiding officer of each house the budgets, and a bill for all the proposed appropriations of the

budgets clearly itemized and classified; and the presiding officer of each house shall promptly cause said bill to be introduced therein and such bill shall be known as the "Budget Bill." The governor may, before final action thereon by the legislature, amend or supplement either of said budgets to correct an oversight; or, in case of an emergency, with the consent of the legislature, by delivering such an amendment or supplement to the presiding officers of both houses; and such amendment or supplement shall thereby become a part of said budget bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment or supplement may affect.

The legislature shall not amend the budget so as to create a deficit, but may amend the bill by increasing or diminishing the items therein relating to the legislature, and by increasing the items therein relating to the judiciary, but except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein; *provided, however*, that the salary or compensation of any public officer shall not be increased or diminished during his term of office.

When such bill has been passed by both houses it shall be immediately presented to the governor, who may approve, veto as a whole, veto any item therein, or decrease any item therein.

If the governor veto the bill as a whole, or any item therein or decrease any item therein, he shall return the bill to the house in which it originated, together with a statement of his reasons for so doing. The legislature may by a majority vote of all the members elected to each branch, taken by yeas and nays, override the veto of the governor, in which case it shall become a law as originally passed notwithstanding the veto of the governor.

Fourth. The governor and such representatives of the executive departments, boards, officers and commissions of the state expending or applying for state moneys as have been designated by the governor for this purpose, shall have the right, and when requested by either house of the legislature, it shall be their duty to appear and be heard with respect to any budget bill during the consideration thereof, and to answer inquiries relating thereto.

Sub-Section C—Supplementary Appropriation Bills

Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriation shall be valid except in accordance with the

provisions following: (1) every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a supplementary appropriation bill; (2) each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax direct or indirect, to be laid and collected as shall be directed in said bill, unless it appears from such budget that there is sufficient revenue available; (3) no supplementary appropriation bill shall become a law unless it be passed in each house by a vote of a majority of the members present, and the yeas and nays recorded on its final passage; (4) each supplementary appropriation bill shall be presented to the governor of the state as provided in section fourteen of article seven of the constitution, and thereafter all the provisions of said section shall apply.

Nothing in this amendment shall be construed as preventing the legislature from passing in time of war an appropriation bill to provide for the payment of any obligation of the state of West Virginia within the protection of section ten of article one of the constitution of the United States.

Sub-Section D—General Provisions

First. If the budget bill shall not have been finally acted upon by the legislature three days before the expiration of its regular session, the governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session, except a provision for the cost thereof.

Second. The governor for the purpose of making up his budgets shall have the power and it shall be his duty, to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and all institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such times as he shall direct. The estimates for the legislative departments, certified by the presiding officer of each house, of the judiciary, as provided by law, certified by the auditor, and for the public schools, as provided by law, shall be transmitted to the governor, in such form and at such times as he shall direct, and shall be included in the budget.

The governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and of all institutions applying for state moneys. After such public hearings he may, in his discretion, revise all estimates except those for the legislative and judiciary departments and for the public schools as provided by law.

Third. The legislature may, from time to time, enact such laws not inconsistent with this section, as may be necessary and proper to carry out its provisions.

Fourth. In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, except amendments thereto heretofore made and ratified by the people, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the governor from calling extraordinary sessions of the legislature, as provided by section seven of article seven, or as preventing the legislature at such extraordinary sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.

SENATE JOINT RESOLUTION NO. 7

(Adopted January 27, 1925)

“Providing for the appointment of a committee to ascertain and report upon the creation of a building program for the state.”

WHEREAS, it appears from the “Proposed Amendment and Supplement to the Budget Bill,” as submitted by the Board of Public Works, that there is recommended an extensive building program for the various institutions of the state, and

WHEREAS, it appears from an examination of the “Budget Bill” proper, as submitted by said Board of Public Works, that there are no funds available from current revenue of the state to carry out any of the recommendations contained in said “Proposed Amendment and Supplement to the Budget Bill”; and

WHEREAS, it would seem desirable that some comprehensive and fundamental plan for the proper development of the various insti-

tutions of the state should be considered at the present session of the legislature; therefore, be it

Resolved by the Legislature of West Virginia:

That a committee of seven be created, three from the Senate, to be appointed by the President, and four from the House of Delegates, to be appointed by the Speaker, whose duty it shall be, during the interim between the initial and adjourned sessions of the legislature, to make a careful survey of the conditions at the various public institutions of the state, including the needs of the state capitol, and to report specifically at the adjourned session of this legislature upon the following questions:

First—What are the needs of the several institutions, including the state capitol, for their proper development and expansion as to buildings, to be in consonance with the growth in population and development of the state, extending over a period of years?

Second—As to whether or not it is practical or desirable to formulate some basic plan of procedure in relation to a building program for the state.

Third—To ascertain whether or not it is feasible or practical to establish a source of revenue for the specific purpose of creating a building program for the state, and, if found desirable, to suggest means of raising the revenue for that specific purpose, to be deposited in a special fund, and for no other purpose, to be known as "The State Building Fund."

Fourth—To further report on any and all matters which, in the judgment of the joint committee, they deem pertinent to an examination of the fundamental needs of the state for more buildings.

Said committee is authorized to continue its investigations during the recess of the legislature, either as a whole or by sub-committees of its membership, and for the purpose of its creation is also authorized to summon before it the various officials in the state connected with the public institutions, to consult with the Board of Control, the Board of Public Works and others in official authority, and to have access to all the official records of the state bearing upon the investigation. Said committee is to have at its disposal the clerical force of the Senate and of the Committee on Taxation and Finance of the House of Delegates, to assist in the work outlined, and is authorized to visit any public institution, as a whole or by sub-committees, if found necessary, and in the performance of their duty on said committee shall be allowed their actual and necessary

expenses, to be paid from the contingent funds of the House and Senate upon the certification of the individual members of the committee. Said committee to have the power to administer oaths and take such testimony as in its judgment seems proper.

SENATE JOINT RESOLUTION NO. 14

(Adopted April 7, 1925)

“Assenting to and accepting the provisions of the act of congress entitled ‘An Act to authorize the more complete endowment of agricultural experiment stations, and for other purposes,’ approved February 24, 1925, and known as the Purnell act.”

WHEREAS, The Congress of the United States has passed an act approved by the President February 24, 1925, entitled, “An act to authorize the more complete endowment of agricultural experiment stations, and for other purposes,” and,

WHEREAS, it is provided in section two of the act aforesaid that the grants of money authorized by this act are made subject to legislative assent of the several states and territories to the purpose of said grants; therefore, be it

Resolved by the Legislature of West Virginia:

That the State of West Virginia hereby assents to the purposes of the grants, and that the State Board of Control be and they are hereby authorized and empowered to receive the grants for the benefit of the West Virginia Agricultural Experiment Station and to use them in accordance with the terms and conditions expressed in the act of Congress aforesaid.

SENATE JOINT RESOLUTION NO. 16

(Adopted April 14, 1925)

“Providing for a joint committee to investigate charges of fraud, extravagance and waste in the State Capitol, made in an article published in the Wheeling Intelligencer under date of April 7, 1925, and articles of a similar nature appearing in the public press.”

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and two on the part of the Senate, to be appointed by the President *pro tem.* thereof, be appointed for the purpose of investigating charges of fraud, extravagance and waste in the construction of the capitol, as recently made in a newspaper of this state. Said committee shall have authority to hold meetings within the city of Charleston and elsewhere within the state, and to summon before it such witnesses as it may direct; and shall also have authority to administer oaths, compel the attendance of witnesses, and the production of such books and papers as may be necessary in order that a complete investigation of the said charges and publications may be had, and a report submitted thereon. Said committee shall also have power to employ such clerical or other assistance as may be deemed necessary for the proper and efficient discharge of its duties. Said committee shall report to the Legislature its findings upon said charges and upon the publication thereof, together with its recommendations in relation thereto.

SENATE JOINT RESOLUTION NO. 17

(Adopted April 16, 1925)

“Proposing the appointment of a commission to confer with commissions of other states to procure uniform legislation regarding marriage.”

WHEREAS, One of the problems of social welfare is the continuing violations of our laws with respect to the issuance of marriage licenses; and,

WHEREAS, Persons who are, in West Virginia, unable to procure marriage licenses under our laws, frequently cross the border to established Gretna Greens in other states, while some communities in our own state are charged with favoring couples who come to West Virginia from adjoining states; and

WHEREAS, Child marriages are usually effected without compliance with the laws of the state wherein the contracting persons have a legal habitation; and,

WHEREAS, Scientific observation and study of child marriages prove they are physically and morally unhappy, resulting most frequently from the advances of a mature male upon innocent girlhood, in many instances resulting in the abandonment of the girl-bride after a short honeymoon, leaving an aftermath of abandoned homes, forsaken wives and deserted children; therefore, be it

Resolved by the Legislature of West Virginia:

That the Governor of West Virginia be and is hereby authorized to appoint a commission of three members, who shall serve without compensation except their actual expenses incurred, to study the statutes concerning marriage in effect in those states surrounding West Virginia, and that the Governor of West Virginia request the appointment of similar commissions in Ohio, Pennsylvania, Kentucky, Maryland and Virginia to confer with reference to the enactment of uniform legislation on this subject which will conserve the public welfare.

SENATE JOINT RESOLUTION NO. 21

(Adopted April 23, 1925)

“Authorizing the Governor of the State of West Virginia to audit and make a survey of the methods and plans followed by the various departments, boards and heads thereof, in the handling of revolving funds and public moneys of the state, not going into the state treasury, and prescribing rules and regulations for safeguarding same.”

Resolved by the Legislature of West Virginia:

That the Governor of the state of West Virginia be authorized to audit and make a complete survey of the various departments, boards and heads thereof, whether elective or otherwise, of the methods and plans followed in the handling of revolving funds and public moneys coming into their hands, not going directly into the state treasury and disbursed therefrom by the state treasurer; and prescribe such rules and regulations, and be empowered to enforce the same, as in his judgment will result in uniformity and properly protect the public interest.

SENATE CONCURRENT RESOLUTION NO. 2

(Adopted January 19, 1925)

“Concerning attaches of both branches of the legislature.”

Resolved, That this legislature, in session assembled, hereby pledges itself to the most economical expenditure of the state's money consistent with efficiency; and be it

Further Resolved, That neither branch of this legislature shall appoint to any position any person now holding any remunerative position or office with either the federal, state or any county or municipal administration, unless such person shall first sever his connection with such other position or office, and his remuneration from such position or office cease and determine during any term of appointment by either of the branches of this legislature.

SENATE CONCURRENT RESOLUTION NO. 5

(Adopted January 27, 1925)

“Providing for the pay of the *per diem* of the attaches of the legislature pending the passage of the general appropriation bill.”
Resolved by the Senate, the House of Delegates concurring therein:

That the auditor is hereby authorized and directed to draw his warrants upon the treasurer to pay the mileage of members and the *per diem* of the attaches of this legislature, in advance of the passage of the appropriation bill, upon warrants drawn upon him by the Clerk of the Senate and the Sergeant-at-Arms of the House of Delegates, respectively.

SENATE CONCURRENT RESOLUTION NO. 6

(Adopted January 27, 1925)

“Concerning the printing of bills.”

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

That no bills shall be printed during the recess between the two constitutional divisions of the legislative session, except as follows:

(1) Bills that shall have been favorably reported by a Committee of the Senate or House of Delegates during the fifteen-day session, and requested by such committee to be printed;

(2) Bills that the Senate or House Committee, having same in charge, shall not have reported upon, but which such committee shall direct to be printed;

(3) Bills that the Joint Committee on Printing Bills shall direct to be printed as being of general interest and importance; and said committee shall act in consultation with the Clerk of the Senate and the Clerk of the House of Delegates.

SENATE CONCURRENT RESOLUTION NO. 8

(Adopted March 18, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to amend chapter thirty of the acts of one thousand nine hundred and twenty-one of the legislature of West Virginia, extending the boundary lines of the Huntington Independent School District.”

SENATE CONCURRENT RESOLUTION NO. 11

(Adopted March 31, 1925)

“Providing for a Senate and House joint committee for the investigation of unauthorized changes and modifications made in certain acts of the Legislature of West Virginia, passed at the 1923 session.”

WHEREAS, Upon examination of the records of the Legislature of West Virginia, session of 1923, it is shown that in certain acts of the state legislature, considered and passed at that session, appear certain changes, modifications and additions which were not contained in such acts as passed by the legislature; and,

WHEREAS, In some instances these changes, additions and modifications change the tenor and effect of the said acts to the end that they do not as changed express the will and intent of the legislature; and,

WHEREAS, It appears that these changes, modifications and additions were made after the acts in which they occur were passed upon the legislature, considered and approved by that body, and were made by some person or persons without the consent and approval of the legislature; now, therefore, be it

Resolved by the Legislature of West Virginia:

That a joint committee of the legislature, consisting of two members of the Senate, to be appointed by the President of the Senate, and three members of the House of Delegates, to be appointed by the Speaker of the House, be appointed and authorized to make an investigation and inquiry into the matter of unauthorized changes, modifications and additions that may have been made in any of the acts of the legislature passed and approved at the session of 1923, and that each change discovered by said committee to have been so made be disclosed and reported at the present session of the legislature, and if the fact be disclosed, by whom and in what manner such changes, modifications and additions were made. And further to report such other facts, circumstances and information as may be of interest to the legislature touching this matter.

Said committee shall have power to employ such clerical assistance as it may deem necessary in the proper and efficient discharge of its duties, and is hereby vested with power and authority to compel the attendance and testimony of witnesses, to administer oaths, to compel the production of such books, papers and records as the committee may deem necessary, and to make a thorough examination and disclosure touching the purpose of this resolution as expressed in the premises hereof.

SENATE CONCURRENT RESOLUTION NO. 12

(Adopted April 2, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to authorize the county court of Boone county to lay a special levy for any two consecutive years not exceeding ten cents in any one year on the one hundred dollars valuation on the taxable property in such county under the provisions of the constitution and laws of this state for the sole purpose of purchasing land, by condemnation or otherwise, and erecting thereon a jail and a jailer’s residence.”

SENATE CONCURRENT RESOLUTION NO. 13

(Adopted April 14, 1925)

“Concerning the death of William E. Glasscock.”

William Ellsworth Glasscock, former Governor of West Virginia, passed to his reward on April twelfth, one thousand nine hundred and twenty-five, at his home in Morgantown.

Governor Glasscock was born and reared on a farm in Monongalia county, attended the public schools of that county and also attended West Virginia university. He taught school for a number of years in Iowa and Nebraska, as well as in this state, and served as county superintendent of schools of Monongalia county from one thousand eight hundred and eighty-seven to one thousand eight hundred and ninety.

He resumed the practice of law and followed his profession until one thousand nine hundred and five, when he was appointed collector of internal revenue and served in that office until one thousand nine hundred and eight, resigning that position at the request of his party leaders to become a candidate for governor. After a bitter political battle, due largely to internecine strife in his party, he was elected and served as the thirteenth governor of this state from one thousand nine hundred and nine to one thousand nine hundred and thirteen. The arduous labors of the campaign and the pressing problems of state seriously affected his health and he never fully recovered.

Governor Glasscock was of a most friendly and charitable disposition and a true friend of all the people, and during his term as governor successfully administered the affairs of the state in the interests of all its citizens. Therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That, as a mark of respect to the memory of this unselfish and devoted servant of the state, the legislature does now recess until 7:30 P. M. this day; and

Be it Further Resolved: That a copy of this resolution be mailed by the Clerk of the Senate to the family of the deceased.

SENATE CONCURRENT RESOLUTION NO. 14

(Adopted April 16, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to amend and re-enact section twelve of the acts of the legislature of West Virginia, passed February twenty-seventh, one thousand eight hundred and eighty-seven, in reference to the city charter of the City of Wellsburg, and to add sections forty-two, forty-three and forty-four thereto.”

SENATE CONCURRENT RESOLUTION NO. 15

(Adopted April 20, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill authorizing the issuance and sale of bonds of the state of West Virginia in amount equal to the aggregate face value of any bonds which hereafter may be redeemed of the bonds issued under and pursuant to the provisions of chapter one hundred and thirteen of the acts of the legislature of one thousand nine hundred and twenty-one, regular session, chapter four of the acts of the legislature of one thousand nine hundred and twenty-three,

regular session, and House Bill number one hundred and seventy-three, enacted into law by the legislature of West Virginia at its one thousand nine hundred and twenty-five regular session, and approved by the governor on January twenty-eight, one thousand nine hundred and twenty-five, but not exceeding in the aggregate fifteen million dollars, to raise money for road construction purposes under and by virtue of the 'Good Roads Amendment' to the constitution, adopted at the general election held in November, one thousand nine hundred and twenty; and to provide for the levy and collection of any annual state tax and other revenues sufficient to pay semi-annually the interest on said bonds and the principal thereof when due and payable."

SENATE CONCURRENT RESOLUTION NO. 16

(Adopted April 21, 1925)

"Providing for the introduction of a bill."

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

"A Bill to validate the proceedings authorizing the issuance of road bonds of Clinton district in the county of Monongalia, state of West Virginia, in the sum of one hundred and forty-five thousand dollars (\$145,000.00), authorized at an election in said district on the twenty-first day of March, one thousand nine hundred and twenty-five, by a vote of three-fifths (3-5) of the voters voting at said election upon the question of issuing said bonds, for the purpose of building and improving certain roads in said Clinton district; and to authorize the execution and sale of said bonds, and to provide a tax to pay the same and the interest thereon."

HOUSE JOINT RESOLUTION NO. 20

(Adopted April 20, 1925)

"Creating a commission to investigate water power legislation, with the object in view of developing to the fullest extent the

natural water power resources of the state and to prepare a bill for submission to any special session of the legislature that may be called by the governor."

WHEREAS, it is the belief of the legislature now in regular session that laws should be passed having for their purpose the development of the natural water power resources of the state properly safeguarding the rights of all parties and interests governing the licensing and the exercise of all privileges granted to licensees thereunder, and

WHEREAS, owing to the short time yet available of the remaining days of this session to consider such legislation, to check all details and to approve the same, and to prevent water-power legislation from in any manner interfering with budget and revenue measures, and

WHEREAS, His Excellency, Howard M. Gore, by reason of his experience as Secretary of Agriculture in the cabinet of President Coolidge, and as *ex-officio* member of the Federal Water Power Commission, has had opportunity by personal contact with the problem of water power development from the federal viewpoint with its ramifications extending into the various states of the Union, which contact has given to our governor a more comprehensive as well as a more extensive knowledge of the details of water power development and of the essentials for the protection of the people and the interests of the state than possessed by those who will be called upon to deal in a legislative capacity with this subject, and

WHEREAS, it will remain for the governor to say whether any legislation passed in this behalf fully protects all the people and interests of the state, and

WHEREAS, the members of the legislature feel that our governor should have opportunity to make special study of the bills now pending before the legislature so that he will be able to give the commission hereinafter created the benefit of his knowledge and the state's requirements from the executive viewpoint; now, therefore,

Be it Resolved by the Legislature of West Virginia:

That a special commission be and the same is hereby created to be composed of the governor of the state, the president of the senate, the chairman of the judiciary committee of the senate, and the leader of the minority of the senate; the speaker of the house of delegates, the chairman of the judiciary committee of

the house, and the leader of the minority of the house of delegates, which commission shall proceed at the earliest possible time to an investigation of the subject and the drafting of a suitable law providing for the development of the water power resources of the state; and that said commission report the results of its investigations, together with its draft of a proposed law on the subject, to a special session of the legislature to be called by the governor, as soon as possible after the completion of the report of such commission.

HOUSE CONCURRENT RESOLUTION NO. 1

(Adopted January 14, 1925)

“Raising a joint committee to wait upon the governor.”

Resolved, That a joint committee be appointed, three by the Speaker of the House and two by the President of the Senate, to wait upon the governor and to inform him that the legislature is organized with a quorum of each house present, and is prepared to receive any communication he is pleased to make, and to proceed with the business of the session.

HOUSE CONCURRENT RESOLUTION NO. 2

(Adopted January 27, 1925)

“Raising a committee on the joint rules.”

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee on rules be raised, to consist of three on the part of the House, to be appointed by the Speaker, and two on the part of the Senate, to be appointed by the President.

HOUSE CONCURRENT RESOLUTION NO. 4

(Adopted January 27, 1925)

“Providing for the appointment of a supervisor of printing for the two houses.”

Resolved, That the Clerks of the Senate and House of Delegates appoint a supervisor of printing who shall have general oversight and direction of the printing of the two houses, one-half of his compensation to be paid by the senate and one-half by the house of delegates, at a per diem of fifteen dollars.

HOUSE CONCURRENT RESOLUTION NO. 5

(Adopted January 27, 1925)

“Providing for the annual display of the United States flag on Mother’s Day, the second Sunday in May.”

WHEREAS, The service rendered to the United States by our American homes is the supreme source of our country’s strength and inspiration, and

WHEREAS, We honor ourselves, our homes, state and nation when we do anything to give emphasis to the home as the fountain head of the state, and

WHEREAS, The American mother has done, and is doing, so much for the home, the moral and industrial uplift and religion, hence so much for good government, patriotism, humanity and religion, therefore be it

Resolved, That the Governor of this state is hereby authorized and requested to issue annually a proclamation calling upon our state officials to display the United States flag on all state and school buildings, and the people of the state to display the flag at their homes, lodges, churches, places of business and other suitable places on the second Sunday in May, known as Mother’s Day, founded by Anna Jarvis, of Philadelphia, Pa., as a public expression of love and reverence for the homes of our state, especially for their mothers and other patriotic women therein, and that the governor urge the celebration of Mother’s Day in said proclamation in such a way as will deepen home ties and inspire better homes and closer union between the commonwealth, its homes and their sons and daughters.

HOUSE CONCURRENT RESOLUTION NO. 9

(Adopted January 28, 1925)

“Raising a joint committee to wait upon the governor.”

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and two on the part of the Senate, to be appointed by the President thereof, be appointed for the purpose of notifying the governor that the legislature is ready to recess until March eleventh next, and ask him if he has any further communication to make.

HOUSE CONCURRENT RESOLUTION NO. 10

(Adopted March 11, 1925)

“Raising a joint committee to wait upon the governor.”

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker, and two on the part of the Senate, to be appointed by the President thereof, be appointed for the purpose of notifying the governor that the legislature has re-convened at the expiration of the constitutional recess, with a quorum of each house present, and is ready to receive any communication he may desire to make.

HOUSE CONCURRENT RESOLUTION NO. 12

(Adopted March 16, 1925)

“Raising a joint committee on reciprocal motor regulations with neighboring states.”

WHEREAS, The House of Representatives of the State of Ohio by resolution has authorized the appointment of a committee of its members to meet and confer with similar committees from adjoining states for the purpose of eliminating the uncertainty and con-

confusion regarding reciprocal regulation of motor vehicle traffic, between the said states, and

WHEREAS, The Legislature of West Virginia has been requested to participate in such conference, therefore be it,

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee to be composed of two members to be appointed by the Speaker of the House and one member to be appointed by the President of the Senate is hereby authorized which said committee is directed to meet and confer with a similar committee appointed by the State of Ohio and such other states as may participate in said conference, regarding the reciprocal regulation of motor vehicle traffic in and between the State of West Virginia and said neighboring states; that the results of said conferences be reported by the said committees to the House of Delegates and the Senate; that the necessary traveling and contingent expenses of the members of said committee are authorized and directed to be paid out of the contingent fund of the House of Delegates and the Senate.

HOUSE CONCURRENT RESOLUTION NO. 13

(Adopted March 19, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A bill to amend and re-enact section fifty-six of chapter fifteen of the acts of the legislature of West Virginia in its 1919 session, fixing the date of the regular election of the city officers for the city of Buckhannon, providing the manner of making nominations, calling city elections and all special elections, the appointment of all election officers to hold all elections hereunder, to fix the term of office of mayor, city recorder, and councilmen, to adopt a seal, and to divide the city of Buckhannon into fire districts and residence districts.”

HOUSE CONCURRENT RESOLUTION NO. 17

(Adopted March 23, 1925)

"Providing for the introduction of a bill."

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

"A bill to authorize the magisterial district of Charleston, Kanawha county, outside of the municipality of Charleston to become indebted by the issuance and sale of bonds."

HOUSE CONCURRENT RESOLUTION NO. 19

(Adopted March 24, 1925)

"Providing for the introduction of a bill."

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

"A Bill providing for the control and eradication of the plant disease commonly known as 'apple rust,' in the several counties of this state."

HOUSE CONCURRENT RESOLUTION NO. 21

(Adopted March 26, 1925)

"Concerning the Barrackville mine disaster."

Be it resolved by the Legislature of West Virginia:

That, as representatives of the people of the entire state in legislative session assembled and deeply interested in the welfare and safety of our workingmen, we profoundly deplore the recent catastrophe at Barrackville, in northern West Virginia, resulting in the loss of the lives of many men while engaged in productive industry,

sincerely sympathize with the relatives, friends and employers of these unfortunate men, and warmly commend the governor and other officers of the state for their prompt and earnest effort to alleviate the situation.

HOUSE CONCURRENT RESOLUTION NO. 24

(Adopted March 31, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill authorizing the City of Beckley to lay a special levy of five cents on each one hundred dollars valuation of all real estate and personal property therein for a period of ten years, and providing for the expenditure thereof.”

HOUSE CONCURRENT RESOLUTION NO. 26

(Adopted March 31, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to authorize the county court of Brooke county to issue certificates to raise money for the purchase of a site and the building and erection of a court house, jail, and jailer's residence in Brooke county, West Virginia, and to authorize the said county court to lay a special levy or levies on all taxable property for the purpose of discharging said indebtedness as created by said certificates.”

HOUSE CONCURRENT RESOLUTION NO. 27

(Adopted April 8, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to amend and re-enact section sixteen of chapter twenty-eight-a of Barnes' code of one thousand nine hundred and twenty-three, relating to the construction of and repairs to court houses.”

HOUSE CONCURRENT RESOLUTION NO. 28

(Adopted April 6, 1925)

“Concerning the death of Honorable George Wesley Atkinson.”

The legislature has heard with profound sorrow of the death of Honorable George Wesley Atkinson, that grand old man and true son of West Virginia, who served his state and his nation ably, honestly and conscientiously for many years as United States Marshal, United States District Attorney, Member of Congress, Governor, and Judge on the United States Court of Claims. No citizen of this state was better known and more generally respected, had been accorded higher honors or served the people in so large a number of important positions. No man in West Virginia ever had a more numerous and loyal personal following. Governor Atkinson was a lawyer of rare ability, a statesman with a national reputation, an author and historian of considerable renown, a man of broad culture and wide information, a devoted husband, a loving father, a loyal friend and a Christian gentleman. His fame now belongs to the state. “A tall cedar in Lebanon has fallen.” Therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That, as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career, the legislature shall stand adjourned until tomorrow at 2 P. M.

Resolved, That the Clerk of the House send a copy of this resolution to the family of the deceased.

HOUSE CONCURRENT RESOLUTION NO. 29

(Adopted April 8, 1925)

“Providing for an Easter recess of the Legislature.”

Resolved by the House of Delegates, the Senate concurring therein:

That when the two houses adjourn on Thursday, April 9th, they stand adjourned until 2 o'clock P. M., Tuesday, April 14, 1925.

HOUSE CONCURRENT RESOLUTION NO. 30

(Adopted April 16, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to amend and re-enact chapter thirty of the acts of the legislature of one thousand nine hundred and twenty-one, relating to the charter of the city of Williamstown.

HOUSE CONCURRENT RESOLUTION NO. 31

(Adopted April 20, 1925)

“Providing for the introduction of a bill.”

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill relating to the office of the prosecuting attorney of Kanawha county, and providing additional help for same in case of emergency or necessity.”

HOUSE CONCURRENT RESOLUTION NO. 32

(Adopted April 17, 1925)

"Providing for the introduction of a bill."

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

"A Bill to provide for work by male persons upon the public roads."

HOUSE CONCURRENT RESOLUTION NO. 33

(Adopted April 17, 1925)

"Providing for the introduction of a bill."

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

"A Bill to authorize the county court of Preston county to lay a special levy for each of the years nineteen hundred and twenty-six, nineteen hundred and twenty-seven, nineteen hundred and twenty-eight, nineteen hundred and twenty-nine, nineteen hundred and thirty, and nineteen hundred and thirty-one, for the purpose of securing rights of way and constructing roads in Valley district of Preston county, West Virginia."

HOUSE CONCURRENT RESOLUTION NO. 37

(Adopted April 22, 1925)

"Providing for the introduction of a bill."

Resolved by the Legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill authorizing county courts to lay a levy for the building and furnishing of a court house in instances wherein the same has been destroyed by fire, storm, or other casualty.”

HOUSE CONCURRENT RESOLUTION NO. 38

(Adopted April 24, 1925)

“Providing for the printing and distributing of advance copies of the acts of the regular session of one thousand nine hundred and twenty-five.”

Resolved by the House of Delegates, the Senate concurring therein:

That the clerks of the two houses are hereby directed to have printed by the public printer, two thousand five hundred advance copies of the acts of this session exclusive of municipal charters, properly head noted, and with a full table of contents, and in paper binding, for distribution among the members of the legislature, judges of the supreme court of appeals, and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the senate and house of delegates at last ten of said advance copies, and one copy to each of the officials hereinbefore enumerated, and ten copies to each of the state officials, and the remainder, if any, they shall deliver to the secretary of state for general distribution. The said clerks are also authorized and directed to have printed in signature form or advance sheets, any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of the contingent fund of the house and one hundred dollars out of the contingent fund of the senate is hereby directed to be paid by the auditor upon proper warrants, respectively, to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution, the time of said clerks, the supervisor of printing of the two houses, and two assistant clerks from each house is extended for sixty days, the compen-

sation to be paid out of the contingent fund of the senate and house, respectively, upon proper warrants being drawn therefor by the clerk of the senate and the sergeant-at-arms of the house, and the auditor is hereby authorized and directed to pay the same.

HOUSE CONCURRENT RESOLUTION NO. 39

(Adopted April 28, 1925)

“Raising a joint committee to wait upon the governor.”

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and two on the part of the Senate, to be appointed by the President thereof, be appointed for the purpose of notifying the Governor that the legislature is ready, under the constitution, to adjourn *sine die*, and ask him if he has any further communication to make.

ACTS

OF

THE LEGISLATURE

OF

WEST VIRGINIA

FIRST EXTRAORDINARY SESSION

1925

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ACTS OF 1925

EXTRAORDINARY SESSION

CHAPTER 1

(Senate Bill No. 1—By Select Joint Committee)

AN ACT to provide for the raising of additional public revenue by a tax upon the privilege of engaging in certain occupations; to provide for the ascertainment, assessment and collection of such tax; to provide penalties for violations of the terms hereof; and to repeal certain statutes.

[Passed June 5, 1925; in effect July 1, 1925. Approved by the Governor.]

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| <p>Sec.
1. Terms defined.
2. Date tax begins.
2-a. Rate of tax on mineral products and timber.
2-b. Rate of tax on manufactured products; products shipped out of the state; sales made to affiliated companies or persons.
2-c. Rate of tax on sale of tangible property; wholesalers or jobbers.
2-d. Rate of tax on gross incomes, banks, railroads, pipe lines, telephones, telegraphs, express, power and light, public utilities; exceptions as to interstate commerce.
2-e. Rate of tax on contractors.
2-f. Rate of tax on operating theatres, moving pictures, amusements, etc.
2-g. Rate of tax on items not included in the preceding sections; gross incomes not in measure of, when; tax on mineral or timber used or consumed in the business of production thereof.
2-h. Exemption of ten thousand dollars.
3. Engaging in business taxed hereunder, deemed application for license for same.
4. Certain businesses, organizations and societies exempt from tax.</p> | <p>Sec.
5. Time and manner of payment of taxes.
6. Making returns and remittances; by whom verified; time when.
7. Correction of error in computing tax.
8. Procedure upon failure or refusal to make proper returns.
9. Tax a lien upon business or stock of goods sold; return by seller; duty of purchaser.
10. Appeals from assessments to the board of public works; hearings; suits; jurisdiction; injunctions.
11. Taxes due and unpaid are a debt to the state; how collected; penalties.
12. The tax year.
13. This tax an addition to other taxes and licenses levied by law; how remitted.
14. Payment of tax prerequisite to issuance of dissolution or withdrawal certificates.
15. Penalty for refusing to make returns or for making fraudulent returns, or to evade the payment of taxes; jurisdiction.
16. State tax commissioner to administer this act.
16-a. If any part of act invalid, other parts not affected.
17. Inconsistent acts repealed; exceptions.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. That when used in this act, the term "person" 2 or the term "company," herein used interchangeably, 2-a includes any individual, firm, co-partnership, joint 3 adventure, association, corporation, trust, or any other

4 group or combination acting as a unit, and the plural as
5 well as the singular number, unless the intention to give a
6 more limited meaning is disclosed by the context. The terms
7 "tax commissioner" and "state tax commissioner" mean the
8 state tax commissioner of the state of West Virginia. The term
9 "tax year" or "taxable year" means either the calendar year,
10 or the taxpayer's fiscal year when permission is obtained from
11 the tax commissioner to use same as the tax period in lieu of
12 the calendar year. The term "sale" or "sales" includes the
13 exchange of properties as well as the sale thereof for money,
14 every closed transaction constituting a sale. The word "tax-
15 payer" means any person liable for any tax hereunder. The term
16 "gross income" means the value proceeding or accruing from
17 the sale of tangible property (real or personal), or service, or
18 both, and all receipts, actual or accrued, by reason of the invest-
19 ment of the capital of the business engaged in, including inter-
20 est, discount, rentals, royalties, fees, or other emoluments how-
21 ever designated and without any deduction on account of the
22 cost of property sold, the cost of materials used, labor costs,
23 interest or discount paid, or any other expense whatsoever; and
24 without any deductions on account of losses. The term "busi-
25 ness" as used in this act shall include all activities engaged in or
26 caused to be engaged in with the object of gain, benefit or ad-
27 vantage either direct or indirect, and not excepting sub-activities
28 producing marketable commodities used or consumed in the main
29 business activity, each of which sub-activities shall be considered
30 business engaged in taxable in the class in which it falls. The
31 term "gross proceeds of sales" means the value proceeding or
32 accruing from the sale of tangible property without any deduc-
33 tion on account of the cost of property sold, expenses of any kind,
34 or losses.

Sec. 2. That from and after the thirtieth day of June, one
2 thousand nine hundred twenty-five, there is hereby levied
3 and shall be collected annual privilege taxes against the persons,
4 on account of the business activities, and in the amounts to
5 be determined by the application of rates against values or
6 gross income, as the case may be, as follows:

Sec. 2-a. Upon every person engaging or continuing within
2 this state in the business of mining and producing for sale,
3 profit, or use, any coal, oil, natural gas, limestone, sand or other
4 mineral product, or felling and producing timber for sale, profit,

5 or use, the amounts of such tax to be equal to the value of the ar-
6 ticles produced as shown by the gross proceeds derived from the
7 sale thereof by the producer (except as hereinafter provided),
8 multiplied by the respective rates as follows: coal, forty-two one
9 hundredths of one per cent; oil, one per cent; natural gas, one
10 and seventeen-twentieths of one per cent; limestone, sand or
11 other mineral product, nine-twentieths of one per cent; timber,
12 nine-twentieths of one per cent. The measure of this tax is the
13 value of the entire production in this state, regardless of the
14 place of sale or the fact that deliveries may be made to points
15 outside the state.

Sec. 2-b. Upon every person engaging or continuing within
2 this state in the business of manufacturing, compounding, or
3 preparing for sale, profit, or use, any article or articles, sub-
4 stance or substances, commodity or commodities, the amount
5 of such tax to be equal to the value of the articles manu-
6 factured, compounded or prepared for sale, as shown by the
7 gross proceeds derived from the sale thereof by the manu-
8 facturer or person compounding or preparing the same (ex-
9 cept as hereinafter provided), multiplied by a rate of
10 twenty-one one-hundredths of one per cent. The measure of this
11 tax is the value of the entire product manufactured, compound-
12 ed, or prepared for sale, profit or use in this state, regardless of
13 the place of sale or the fact that deliveries may be made to
13-a points outside the state.

14 If any person liable for any tax under sections 2-a or 2-b
15 shall ship or transport his products or any part thereof out
16 of the state without making sale of such products, the value
17 of the products or articles in the condition or form in which
18 they existed when transported out of the state shall be the
19 basis for the assessment of the tax imposed in said para-
20 graphs; and the tax commissioner shall prescribe equitable and
21 uniform rules for ascertaining such value.

22 In determining value, however, as regards sales from one to
23 another of affiliated companies or persons, or under other cir-
24 cumstances where the relation between the buyer and seller is
25 such that the gross proceeds from the sale are not indicative of
26 the true value of the subject matter of the sale, the tax com-
27 missioner shall prescribe uniform and equitable rules for de-
28 termining the value upon which such privilege tax shall be
29 levied, corresponding as nearly as possible to the gross pro-

30 ceeds from the sale of similar products of like quality or char-
31 acter by the other taxpayers where no common interest exists
32 between the buyer and seller, but otherwise under similar
33 circumstances and conditions.

Sec. 2-c. Upon every person engaging or continuing within
2 this state in the business of selling any tangible property what-
3 soever, real or personal, (not including, however, bonds or
4 other evidence of indebtedness, or stocks), there is likewise
5 hereby levied, and shall be collected, a tax equivalent to two
6 tenths of one per cent of the gross income of the business;
7 *provided, however*, that in the case of a wholesaler or jobber,
8 the tax shall be equal to one-twentieth of one per cent of
9 the gross income of the business. The classification of whole-
10 saler or jobber shall be used only by any person doing a
11 regularly organized jobbing business, known to the trade as
12 such, and having regularly in his exclusive employment one
13 or more traveling salesmen.

Sec. 2-d. Upon persons engaging or continuing within this
2 state in their respective businesses, there is likewise hereby
3 levied and shall be collected, taxes on account of the business
4 engaged in equal to the gross income of the business multi-
5 plied by the respective rates as follows: banks, three-tenths
6 of one per cent; steam railroads, one per cent; street
7 railroads, two-fifths of one per cent; companies operating pipe
8 lines carrying oil or gas, one per cent; telephone, telegraph,
9 express, electric light and power companies, three-fifths
10 of one per cent; other public service companies or utilities,
11 two-fifths of one per cent. There shall be excepted from the
12 gross income so to be taxed, so much thereof as is derived from
13 business conducted in commerce between this state and other
14 states of the United States, or between this state and foreign
15 countries.

Sec. 2-e. Upon every person engaging or continuing with-
2 in this state in the business of contracting, the tax shall be
3 equal to three-tenths of one per cent of the gross income of the
4 business.

Sec. 2-f. Upon every person engaging or continuing with-
2 in this state in the business of operating a theatre, opera house,
3 moving picture show, vaudeville, amusement park, dance hall,
4 skating rink, race track, or any other place at which amuse-

5 ments are offered the public, the tax shall be equal to one per
6 cent of the gross income of any such business.

See. 2-g. Upon every person engaging or continuing with-
2 in this state in any business not included in the preceding
3 sections, there is likewise hereby levied, and shall be collected,
4 a tax equal to three-tenths of one per cent of the gross income
5 of any such business.

6 Nothing herein contained shall be construed so as to re-
7 quire the use of any gross income in the measure of the tax
8 levied under sections 2-c, 2-d, 2-e, 2-f and 2-g of this act that
9 has been included in the measure of the tax levied under the
10 preceding sections hereof.

11 All persons exercising privileges taxable under sections 2-b,
12 2-c, 2-d, 2-e, 2-f, or 2-g, producing minerals or timber the
13 production of which is taxable under section 2-a, and using
14 or consuming same in their business, shall be deemed to be
15 engaged in the business of mining and producing minerals or
16 timber for sale, profit or use, and shall be required to make re-
17 turns on account of the production of said minerals or tim-
18 ber showing the gross proceeds therefrom, or the equivalent
19 thereof, in accordance with uniform and equitable rules for
20 determining the value upon which such privilege tax shall
21 be levied, corresponding as nearly as possible to the gross
22 proceeds from the sale of similar products of like quality or
23 character by other taxpayers, which rules the tax commis-
24 sioner shall prescribe.

Sec. 2-h. In computing the amount of tax levied here-
2 under, however, for any year, there shall be deducted from
3 the values, or from the gross income of the business, as the
4 case may be, an exemption of ten thousand dollars of the
5 amount of such values or gross income. Every person exer-
6 cising any privilege taxable hereunder for any fractional part
7 of a tax year shall be entitled to an exemption of that part
8 of the sum of ten thousand dollars which bears the same pro-
9 portion of the total sum that the period of time during which
10 such person is engaged in such business bears to a whole
11 year.

Sec. 3. If any person after the thirtieth day of June,
2 one thousand nine hundred and twenty-five, shall engage or
3 continue in any business for which a privilege tax is imposed
4 by this act, he shall be deemed to have applied for and to

5 have duly obtained from the state of West Virginia a license
6 to engage in and to conduct such business for the current tax
7 year, upon the condition that he shall pay the tax accruing to
8 the state of West Virginia under the provisions of this act;
9 and he shall hereby be duly licensed to engage in and con-
10 duct such business.

Sec. 4. There are, however, exempted from the provisions of
2 this act : (a) insurance companies which pay to the state of
3 West Virginia a tax upon premiums levied under the provisions
4 of chapter seventy-seven of the acts of the legislature of one
5 thousand nine hundred and seven; (b) mutual savings banks not
6 having a capital stock represented by shares, and which are
7 operated exclusively for the benefit of their depositors; (c) labor,
8 agriculture and horticultural societies and organizations not
9 operated for profit; cemetery companies which are organized and
10 operated exclusively for the benefit of their members; fraternal
11 benefit societies, orders or associations operating under the lodge
12 system, or for the exclusive benefit of the members of the fra-
13 ternity itself operating under a lodge system, and providing
14 for the payment of death, sick, accident or other benefits to the
15 members of such societies, orders or associations, and to their
16 dependents; mutual building and loan associations, operated
17 exclusively for the benefit of their members; corporations, asso-
18 ciations, or societies organized and operated exclusively for re-
19 ligious, charitable, scientific or educational purposes; business
20 leagues, chambers of commerce, boards of trade, civic leagues,
21 and organizations operated exclusively for the benefit of the
22 community and for the promotion of social welfare; none of
23 which companies, organizations, corporations or societies named
24 in clause (c) of this section are organized for profit and no
25 part of the income of which inures to the benefit of any private
26 stockholder or individual.

Sec. 5. The taxes levied hereunder shall be payable in quar-
2 terly installments on or before the expiration of thirty days
3 from the end of the quarter in which the tax accrues. The
4 taxpayer shall, within thirty days from the expiration of each
5 quarter, make out an estimate of the tax for which he is liable
6 for such quarter, verify the same by oath, and mail the same
7 together with a remittance in the form required by section
8 thirteen of this act for the amount of the tax, to the office of the

9 state tax commissioner. In estimating the amount of the tax
10 due for each quarter the taxpayer may deduct one-fourth of the
11 total exemption allowed for the year. *Provided, however,* that
12 when the total tax for which any person is liable under this act
13 does not exceed the sum of one hundred dollars in any year, the
14 total amount of said tax shall be payable at the end of the
15 month next following the close of the tax year.

Sec. 6. On or before thirty days after the end of the tax year
2 each person liable for the payment of a tax under section two
3 of this act shall make a return showing the gross proceeds of
4 sales, or gross income of business, and compute the amount of
5 tax chargeable against him in accordance with the provisions
6 of this act, and deduct the amount of quarterly payments, (as
7 hereinbefore provided), if any, and transmit with his report a
8 remittance in the form required by section thirteen of this act
9 covering the residue of the tax chargeable against him to the
10 office of the state tax commissioner; such return shall be verified
11 by the oath of the taxpayer, if made by an individual, or by the
12 oath of the president, vice-president, secretary or treasurer of
13 a corporation if made on behalf of a corporation. If made on
14 behalf of a partnership, joint adventure, association, trust, or
15 any other group or combination acting as a unit, any individual
16 delegated by such firm, co-partnership, joint adventure, asso-
17 ciation, trust, or any other group or combination acting as a
18 unit shall make the oath on behalf of the taxpayer. If for any
19 reason it is not practicable for the individual taxpayer to make
20 the oath, the same may be made by any duly authorized agent.
21 The tax commissioner, for good cause shown, may extend the
22 time for making the annual return on the application of any
23 taxpayer and grant such reasonable additional time within
24 which to make the same as may, by him, be deemed advisable.

Sec. 7. If the taxpayer shall make any error in computing
2 the tax assessable against him, the state tax commissioner
3 shall correct such error or re-assess the proper amount of taxes,
4 and notify the taxpayer of his action by mailing to him prompt-
5 ly a copy of the corrected assessment, and any additional tax
6 for which such taxpayer may be liable shall be paid within ten
7 days after the receipt of such statement.

Sec. 8. If any person fail or refuse to make a return, the
2 state tax commissioner shall proceed, in such manner as may

3 seem best, to obtain facts and information on which to base the
4 assessment of tax herein prescribed; and to this end he may
5 by himself or his duly appointed agent, make examination of
6 the books, records and papers of any such person, and may take
7 the evidence, on oath, of any person who he may believe shall
8 be in possession of facts or information pertinent to the sub-
9 ject of inquiry, which oath, he or the agent so appointed by
10 him may administer. As soon as possible after procuring such
11 information as he may be able to obtain with respect to any
12 person failing or refusing to make a return, the state tax com-
13 missioner shall proceed to assess the tax against such person,
14 and shall notify him of the amount thereof, and his act shall
15 be final as to any person who refused to make a return.

Sec. 9. The tax imposed by this act shall be a lien upon the
2-3 property of any person subject to the provisions hereof
4 who shall sell out his business or stock of goods, or
5 shall quit business, and such person shall be required to
6 make the return provided for under section six within
7 thirty days after the date he sold out his business or stock of
8 goods; or quit business, and his successor in business shall be
9 required to withhold sufficient of the purchase money to cover
10 the amount of said taxes due and unpaid until such time as the
11 former owner shall produce a receipt from the tax commis-
12 sioner showing that the taxes have been paid. If the purchaser
13 of a business or stock of goods shall fail to withhold purchase
14 money as above provided and the taxes shall be due and unpaid
15 after the thirty day period allowed, he shall be personally lia-
16 ble for the payment of the taxes accrued and unpaid on ac-
17 count of the operation of the business by the former owner.

Sec. 10. If any person having made the return and paid
2 the tax as provided by this act, feels aggrieved by the assess-
3 ment so made upon him for any year by the state tax com-
4 missioner, he may apply to the board of public works by peti-
5 tion, in writing, within thirty days after notice is mailed to
6 him by the state tax commissioner, for a hearing and a correc-
7 tion of the amount of the tax so assessed upon him by the state
8 tax commissioner, in which petition shall be set forth the rea-
9 sons why such hearings should be granted and the amount of
10 such tax should be reduced. The board shall promptly consider
11 such petition, and may grant such hearing or deny the same.
12 If denied, the petitioner shall be forthwith notified thereof;
13 if granted, the board shall notify the petitioner of the time and

14 place fixed for such hearing. After such hearing, the board
15 may make such order in the matter as may appear to it just
16 and lawful, and shall furnish a copy of such order to the peti-
17 tioner. Any person improperly charged with any tax and re-
18 quired to pay the same, may recover the amount paid, together
19 with interest, in any proper action or suit against the state tax
20 commissioner and the circuit court of the county in which the
21 taxpayer resides or is located shall have original jurisdiction
22 of any action to recover any tax improperly collected. It shall
23 not be necessary for the taxpayer to protest against the payment
24 of the tax or to make any demand to have the same refunded
25 in order to maintain such suit. In any suit to recover taxes
26 paid or to collect taxes the court shall adjudge costs to such
27 extent and in such manner as may be deemed equitable.

28 No injunction shall be awarded by any court or judge to
29 restrain the collection of the taxes imposed by this act, or any
30 part of them, due from any person, except upon the ground
31 that the assessment thereof was in violation of the Constitution
32 of the United States, or of this state; or that the same were
33 fraudulently assessed; or that there was a mistake made in the
34 amount of taxes assessed upon such person. In the latter case
35 no such injunction shall be awarded, unless application shall
36 first have been made to the board of public works to correct the
37 alleged mistake and the board shall have refused to do so,
38 which fact shall be stated in the bill, or unless the complainant
39 shall have paid into the treasury of the state all taxes appear-
40 ing by the bill of complaint to be owing.

Sec. 11. A tax due and unpaid under this act shall consti-
2 tute a debt due the state and may be collected by action in debt
3 of assumpsit upon motion for judgment or other appropriate
4 judicial proceeding, which remedy shall be in addition to all
5 other existing remedies; and it shall constitute a lien upon all
6 the property of the taxpayer and the same shall be collected
7 together with an additional five per cent of the amount of the
8 tax, and the costs of collection, if paid within thirty days
9 after the date it was due, and an additional two per cent of
10 the amount of the tax for each succeeding thirty days elapsing
11 before the tax shall have been paid; *provided, however,* that
12 the additional two per cent penalty shall not be applied until
13 a ten-day notice of delinquency shall have been sent to the tax-
14 payer.

Sec. 12. The assessment of taxes herein made and the returns required therefor shall be for the year ending on the thirty-first day of December; *provided, however*, that if the taxpayer in transacting his business, keeps the books reflecting the same on a basis other than the calendar year, he may, with the assent of the tax commissioner, make his annual returns and pay taxes for the year covering his accounting period, as shown by the method of keeping the books of his business.

Sec. 13. The tax imposed by this act shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder, except as in this act otherwise specifically provided.

All remittances of taxes imposed by this act shall be made to the state tax commissioner by bank draft, certified check, cashier's check, money order, or certificate of deposit, who shall issue his receipts therefor to the taxpayers and shall pay the moneys into the state treasury to be kept and accounted for as provided by law.

Sec. 14. The secretary of state shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the state tax commissioner to the effect that the tax levied under this act against any such corporation has been paid or provided for, if any such corporation is a taxpayer under the law, or until he shall be notified by the tax commissioner that the applicant is not subject to pay a tax hereunder.

Sec. 15. It shall be unlawful for any person to refuse to make the return provided to be made in sections five and six of this act; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this act; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this act; or for the president, vice-president, secretary or treasurer of any company to make or permit to be made for any company or association any false return, or any false statement in any return required in this act, with the intent to evade the payment of any tax hereunder. And any person violating any

13 of the provisions of this section shall be guilty of a misdemeanor
14 and on conviction thereof shall be fined not more than one thou-
15 sand dollars or imprisoned not exceeding one year in the county
16 jail or punished by both fine and imprisonment, at the discretion
17 of the court, within the limitations aforesaid. In addition to the
18 foregoing penalties, any person who shall knowingly swear to
19 or verify any false or fraudulent return, or any return con-
20 taining any false or fraudulent statement, with the intent afore-
21 said, shall be guilty of the offense of false swearing, and, on
22 conviction thereof, shall be punished in the manner provided by
23 law. Any company for which a false return, or a return con-
24 taining a false statement as aforesaid shall be made, shall be
25 guilty of a misdemeanor and may be punished by a fine of not
26 more than one thousand dollars. The circuit and criminal
27 courts of the county in which the offender resides, or if a
28 company, in which it carries on business, shall have concurrent
29 jurisdiction to enforce this section.

Sec. 16. The administration of this act is vested in and shall
2 be exercised by the state tax commissioner who shall prescribe
3 forms and reasonable rules of procedure in conformity with
4 this act for making of returns and for the ascertainment, assess-
5 ment and collection of the taxes imposed hereunder; and the
6 enforcement of any of the provisions of this act in any of the
7 courts of the state shall be under the exclusive jurisdiction of
8 the tax commissioner, who may require the assistance of and
9 act through the prosecuting attorney of any county, and who
10 may, with the assent of the board of public works of the state,
11 employ special counsel in any county to aid the prosecuting
12 attorney, the compensation of whom shall be fixed by and paid
13 only upon the order of said board of public works; but the
14 prosecuting attorney of any county shall receive no fees or com-
15 pensation for services rendered in enforcing this act in addition
16 to the salary paid by the county to such officer.

Sec. 16-a. If any clause, sentence, paragraph, or part of
2 this act shall for any reason be adjudged by any court
3 of competent jurisdiction to be invalid, such judgment shall
4 not affect, impair, or invalidate the remainder of this act, but
5 shall be confined in its operation to the clause, sentence, para-
6 graph, or part thereof directly involved in the controversy in
7 which such judgment shall have been rendered.

Sec. 17. Sections five to seventeen, both inclusive, of chapter 2 three of the acts of the legislature of one thousand nine hundred 3 and fifteen, second extraordinary session, and sections one to 4 five, both inclusive, of chapter six of the acts of the second 5 extraordinary session of the legislature of one thousand nine 6 hundred and seventeen, and chapter seven of the acts of the 7 legislature of one thousand nine hundred and nineteen, extra 8 session, and chapter one hundred and ten, acts of the legislature 9 of one thousand nine hundred and twenty-one, and all other acts 10 and parts of acts inconsistent with the provisions of this act, 11 are hereby repealed. *Provided, however,* that the said sections 12 of the acts of one thousand nine hundred and fifteen, one thou- 13 sand nine hundred and seventeen and one thousand nine hun- 14 dred and nineteen shall remain in full force and effect for the 15 assessment and collection of all taxes, and the imposition and 16 collection all penalties, which have accrued or may accrue in 17 relation to any such taxes up to and including June thirtieth, 18 one thousand nine hundred and twenty-one; and *provided, fur-* 19 *ther,* that chapter one hundred and ten, acts of the legislature 20 of one thousand nine hundred and twenty-one shall remain in 21 full force and effect for the assessment and collection of all 22 taxes, and the imposition and collection of all penalties, which 23 have accrued or may accrue in relation to any such taxes up to 24 and including June thirtieth, one thousand nine hundred and 25 twenty-five.

CHAPTER 2

(Senate Bill No. 15—By Mr. Devore)

AN ACT to raise additional public revenue by imposing an occu-
pational tax at flat rates upon distributors of and retail
dealers in gasoline in this state, and by imposing a special
excise tax upon persons herein specified and based on quanti-
ties of gasoline ("gasoline" as herein defined), sold, pur-
chased, or used in West Virginia; to provide for the ascer-
tainment, collection and application of such taxes; to require
reports by certain persons, firms, corporations and associations
of persons; to provide penalties for violations of the terms
hereof; and to repeal chapter thirty-four, acts of the
legislature of one thousand nine hundred and twenty-three.

[Passed June 4, 1925; in effect July 1, 1925. Approved by the Governor.]

Sec.

1. Definition of terms.
2. License tax for distributing station; for filling station; when due; application for license; display of certificate; penalty for failure to pay tax.
3. Tax of three and one-half cents on each gallon of gasoline sold; measure for tax; when and by whom tax paid.
4. Verified monthly statement by distributor; gallonage furnished by distributor deemed sold; what statement to show.
5. Verified monthly statement by retail dealer; what to show; half-yearly statement by certain retailers.
6. Payment of additional tax on gasoline on which two-cent tax has already been paid.
7. Monthly statement by importer; what to show; payment of tax.
8. Elective basis for ascertaining tax.
9. Tax not to apply to gasoline shipped out of state; payment of tax when shipped into state.
10. Tax commissioner authorized to require transportation companies to furnish statement as to gasoline delivered, and certain details.
11. Verified monthly statement by shipper domiciled in another state;

Sec.

- what to show; regulations concerning statements and payments.
12. Procedure in case of failure, refusal or neglect in making statement; authority of tax commissioner.
13. Penalty for delinquency; action for recovery of taxes due; additional penalty for willful failure; lien of judgment.
14. Invoice to show whether included in measure of tax; failure to report as per invoice; embezzlement; penalty.
15. Engaging in business deemed application for license; enjoining for non-payment of tax; further penalties for violations.
16. Tax paid on evaporated or lost, to be refunded; time limit for application for refund.
17. Tax on gasoline used for certain purposes, refunded; penalty for fraudulent claim for refund.
18. Taxes used for roads; refunds considered as erroneous payments.
19. Tax commissioner to prescribe forms and make regulations for enforcement.
20. If any provision unconstitutional, others not affected.
21. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That an occupational tax for raising additional public revenues be imposed upon distributors of and retail dealers in gasoline in this state, and a special excise tax upon persons herein specified, based upon the quantity of gasoline sold, purchased or used in West Virginia; providing for the ascertainment, collection and application of such taxes, and to require reports upon all transactions herein described; and providing penalties for violations thereof.

Section 1. That when used in this act the term "gasoline" shall include the liquid derived from petroleum or natural gas commonly known and sold as gasoline, and distillate, benzine, benzol, naphtha, liberty fuel, and such other volatile and inflammable liquids produced or compounded for the purpose of operating or propelling motor vehicles, or which is usable for such purpose (and including kerosene, fuel oil and crude oil only when used as a motor vehicle fuel upon any public highway); the term "person" or the term "company" includes any individual, firm, co-partnership, joint adventure, association, corporation, trust and any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context, and when used in connection with the

15 penalties imposed by this act shall mean and include the
16 officers, directors, trustees or members of any firm, co-partner-
17 ship, joint adventure, association, corporation, trust, or any
18 other group acting as a unit; the term "distributor" means
19 distributor of gasoline and includes every person who refines,
20 produces, manufactures, compounds or blends gasoline in this
21 state for use or for sale to jobbers or consumers, and every
22 person who is now engaged, or who may hereafter engage,
23 in his own name or in the name of his representative or agent
24 in this state in the selling of gasoline for the purpose of re-
25 sale or distribution; the term "retail dealer" means retail
26 dealer in gasoline and includes any person not a distributor
27 within the meaning of the previous clause who sells gasoline
28 in this state to consumers only; the term "importer"
29 means importer of gasoline and includes any person who pur-
30 chases or obtains gasoline outside this state and uses the
31 same within the state; the term "state tax commissioner" or
32 "tax commissioner" means the state tax commissioner of the
33 state of West Virginia.

Sec. 2. Every distributor shall pay an annual license
2 tax of twenty-five dollars for each distributing station or place
3 of business or agency located in this state at or from which
4 gasoline is sold for re-sale or distribution or at which gaso-
5 line is produced, refined or compounded, and an annual li-
6 cense tax of five dollars for each filling station or place of
7 business in this state from which gasoline is sold at retail;
8 and such license tax shall be payable on or before the first day
9 of July, 1925, and annually thereafter.

10 Every other retail dealer shall pay an annual license tax of
11 five dollars for each filling station or place of business in this
12 state at which gasoline is sold, and such license tax shall be
13 payable on or before the first day of July, 1925, and annually
14 thereafter.

15 It shall be the duty of every person intending to deal in
16 gasoline in this state to make application to the state tax
17 commissioner for a license so to do, which application shall
18 be accompanied by the amount of the license tax herein re-
19 quired and shall state whether the applicant intends to engage
20 in such business as a distributor or retail dealer, and shall
21 designate the intended place or places of business. A license
22 certificate for any person commencing business after January

23 first in any year may be issued for the half year upon pay-
24 ment of half the annual license tax herein required. The
25 license certificate shall be posted or displayed and so kept at
26 all times in public view at the place of business for which
27 the same was issued. If any person shall fail, neglect or re-
28 fuse to pay the license tax herein imposed within the time pre-
29 scribed, there shall automatically accrue a penalty of fifty per
30 centum thereof, and the tax and the penalty shall be collected
31 as hereinafter provided.

Sec. 3. There is hereby imposed upon every person a dis-
2 tributor, retail dealer or importer under the terms of this
3 act an excise tax based on the quantities of all gasoline sold,
4 purchased or used in this state on and after July 1, 1925 (ex-
5 cept as herein provided), which tax shall be equivalent to
6 three and a half cents per gallon thereof and shall be paid as
7 hereinafter provided. A distributor shall use as the measure of
8 the tax the gallonage sold for whatever use in this state and the
9 gallonage used by him in motor vehicles operated or intended to
10 be operated in whole or in part upon any of the public high-
11 ways, streets or alleys of the state; a retail dealer shall use as
12 the measure of the tax the gallonage purchased or obtained by
13 him, and an importer shall use as the measure of the tax the
14 gallonage used by him in motor vehicles operated or intended
15 to be operated in whole or in part upon any of the highways,
16 streets or alleys of the state.

17 The special excise tax imposed by this act shall be paid by
18 the person first purchasing, selling or using in this state the
19 gallonage of gasoline which under this act shall form the
20 measure of said tax; but in no case shall any such gallonage
21 be used more than once in determining taxes due hereunder.
22 The taxes imposed by this act are in addition to all other taxes
23 now imposed or prescribed by law.

Sec. 4. Every distributor selling gasoline in this state
2 shall within thirty days after the close of each month trans-
3 mit to the state tax commissioner a statement, verified by oath
4 or affirmation, on such forms as the tax commissioner shall
5 prescribe, of all gasoline refined, produced, compounded, re-
6 ceived, sold, distributed or used by such distributor dur-
7 ing the month to be covered, and if any of the gallonage sold or
8 used by such distributor had not previously been included in the
9 measure of tax under the provisions of this act, he shall at

10 the same time pay to the tax commissioner the amount of
11 tax due for such month. *Provided*, that all gallonage fur-
12 nished by any distributor to any of its service stations in this
13 state shall be deemed to have been sold and shall be treated
14 and considered, in computing the tax, in the same manner as
15 though the same had been sold to dealers or to other persons.
16 Such statement shall also contain full details as to each sale
17 made, including the gallonage of gasoline shipped from points
18 without West Virginia direct to customers or consignees in
19 West Virginia; the name and address of each purchaser; the
20 date of each shipment or delivery; the point from which
21 shipped or delivered; the point to which shipped or delivered;
22 the quantity of each shipment or sale; the number and initials
23 of the car in which shipped if shipped by rail; the name of
24 the boat or barge if shipped by water; or if delivered by other
25 means, the method of delivery. The statement shall also accu-
26 rately show the gallonage purchased or received by said dis-
27 tributor during the month; the date each quantity was re-
28 ceived; the point from which shipped or delivered; the point
29 at which received; the name and address of the person from
30 whom purchased or obtained; the quantity of each purchase;
31 the number and initials of the car if shipped by rail; the
32 name of the boat or barge if shipped by water; or if delivered
33 by other means, the method of delivery. The statement shall
34 also contain any additional information the tax commissioner
35 may deem necessary for the proper ascertainment and assess-
36 ment of the tax.

Sec. 5. Every retail dealer shall within thirty days after
2 the close of each month transmit to the state tax commis-
3 sioner a statement, verified by oath or affirmation, on such
3 forms as the tax commissioner shall prescribe, of all gallonage
4 received, purchased or obtained by such retail dealer during
5 the month to be covered, which statement shall show the
6 name and address of the person from whom each purchase of
7 gasoline was made; the point from which shipped or delivered;
8 the point at which received; the number and initials of the car
9 if shipped by rail; the name of the boat or barge if shipped
10 by water; or if delivered by other means, the method of de-
11 livery, and the quantity of each purchase. If any of the gal-
12 lonage purchased or obtained by any such dealer had not been
13 previously included in the measure of tax under the provisions
14 of this act, said dealer shall at the time of making the

15 return pay to the tax commissioner the amount of tax due
16 for such month. *Provided*, that retail dealers who purchase
17 or obtain gasoline from within West Virginia only shall not be
18 required to file returns monthly, but shall within thirty days
19 after the close of each six-months' period transmit to the tax
20 commissioner a statement, under oath or affirmation, on such
21 forms as the tax commissioner shall prescribe, of all gallonage
22 purchased or obtained by such dealer during the six months'
23 period to be covered.

Sec. 6. Every distributor and every retail dealer having on
2 hand at the beginning of business July first, one thousand nine
3 hundred and twenty-five, any gallonage on which the two cent
4 tax imposed by chapter thirty-four, acts of the legislature of
5 one thousand nine hundred and twenty-three, has been paid,
6 shall accurately ascertain such gallonage and shall, within
7 thirty days thereafter, report to the tax commissioner, on forms
8 which the tax commissioner shall prescribe, such gallonage and
9 shall at the same time pay to the tax commissioner an additional
10 tax equivalent to one and one-half cents on each gallon thereof.

Sec. 7. Every importer shall within thirty days after the
2 close of each month transmit to the tax commissioner a state-
3 ment, on such forms as the tax commissioner shall prescribe,
4 of all gallonage received and used by such importer during
5 the month to be covered, which statement shall show the name
6 and address of the person from whom each purchase was made;
7 the point from which shipped or delivered; the point at which
8 received; the date of each shipment or purchase; and the quan-
9 tity of each shipment or purchase; and he shall at the same
10 time pay to the tax commissioner the amount of tax due for
11 such month.

Sec. 8. Any distributor or importer may elect to pay his tax
2 upon the basis of the quantity purchased or received
3 during the month instead of the quantity sold and used; and
4 the quantity of gasoline in the possession of any person electing
5 to make report and pay taxes on purchases, at the beginning
6 of business July first, one thousand nine hundred and twenty-
7 five, shall be deemed and treated as a purchase as of that date.

Sec. 9. This act shall not be construed to require the in-
2 clusion in the measure of tax of any gasoline when the same
3 is exported from this state to another state or nation, nor to
4 require the inclusion in the measure of tax any gasoline shipped
5 in interstate commerce while the same is in transportation; but

6 the gallonage of gasoline shipped from another state shall be
7 included in the measure of tax by the person first selling or
8 using the same after the same shall have been commingled
9 with the general mass of property in this state. *Provided*, that
10 distributors making shipments of gasoline into West Virginia
11 may, as a matter of convenience to purchasers located in West
12 Virginia, assume and pay the tax herein imposed when permis-
13 sion so to do is first obtained from the tax commissioner.

Sec. 10. The state tax commissioner is authorized and em-
2 powered to require every railway or railroad company, water
3 transportation company, and every other person transporting
4 gasoline to points in this state to furnish a statement on forms
5 which the tax commissioner may prescribe to be delivered within
6 sixty days after the close of each month showing all quantities
7 of gasoline delivered at points in West Virginia during the
8 month to be covered, giving the name and address of the con-
9 signor; the name and address of the consignee; the point from
10 which shipped; the point at which delivered; the date of ship-
11 ment; the date of delivery; the number and initials of the car
12 if shipped by rail; the name of the boat or barge if shipped by
13 water; or if delivered by other means, the method of delivery;
14 and the quantity of each shipment.

Sec. 11. Every person domiciled in another state who makes
2 shipments of gasoline consigned to points in West Virginia shall
3 within thirty days after the close of each month transmit to
4 the tax commissioner, on such forms as the tax commissioner
5 shall prescribe, a statement verified by oath or affirmation of
6 all sales or shipments of gasoline made to points in West Vir-
7 ginia during the month to be covered, showing the name and
8 address of each purchaser or consignee; the date of each ship-
9 ment; the point from which shipped; the point to which
10 shipped; the number and initials of the car if shipped by rail;
11 the name of the boat or barge if shipped by water; and the
12 quantity of each shipment.

13 The statements required in sections four, five, seven, ten
14 and eleven shall be filed for each month regardless of whether
15 or not the same shows sales or purchases during any month and
16 regardless of whether or not a tax is due.

17 All payments of taxes imposed by this act shall be made by
18 certified check, cashier's check, bank draft or money order, pay-
19 able to the state tax commissioner.

Sec. 12. If any distributor, retail dealer or importer fail, 2 refuse, or neglect to make any statement required herein, the 3 tax commissioner or his duly appointed agent, shall have power 4 to examine the books, records and papers of such distributor, 5 dealer or importer, to ascertain the amount of tax due under 6 the provisions of this act; and to that end, shall have power 7 to examine witnesses; and if any witness shall fail or refuse 8 to appear at the request of the tax commissioner or his duly 9 appointed agent, or refuse access to the books, records or papers, 10 the tax commissioner shall certify the facts and names of the 11 witnesses failing or refusing to appear, or refusing access to 12 books or papers, to the circuit court of the county having juris- 13 diction of the party, and said court shall thereupon issue sum- 14 mons to the said party to appear before the tax commissioner, 15 or his agent, at a place designated within the jurisdiction of 16 said court, on a day fixed, to be continued as occasion may re- 17 quire, and give such evidence and lay open for inspection such 18 books and papers as may be required for the purpose of ascer- 19 taining the amount of tax, if any, due. The tax commissioner, 20 or his agent, shall from such examination determine and fix the 21 amount of the excise tax and penalty due the state from such 22 delinquent, and shall add the cost of the examination, and shall 23 proceed to collect the amount of tax and penalty, and the cost 24 of the examination, in the manner provided in section thirteen 25 for the collection of delinquent taxes.

26 The tax commissioner, or his duly appointed agent, shall have 27 power to examine the books and papers of any person per- 28 taining to gasoline sales or receipts, to verify the accuracy of 29 any return made under the provisions of this act, and if access 30 to the books and papers be refused, the tax commissioner shall 31 proceed as above provided. In order that the tax commissioner 32 may have additional means of checking the accuracy of the re- 33 ports made, and determining the amount of tax due by any 34 person, the books, records and other documents of common 35 carriers, relative to the transportation of gasoline, are hereby 36 declared accessible to the tax commissioner, or his duly ap- 37 pointed agent.

Sec. 13. If any distributor, retail dealer or importer fail, 2 neglect or refuse to file the return due for any month or to pay 3 the excise tax due for any month within the time prescribed 4 for the filing of such return or the payment of such tax, there 5 shall automatically accrue a penalty equal to one-half of one

6 cent on each gallon of gasoline sold or used during the month
7 or on each gallon of gasoline purchased during the month, in
8 accordance with the method of reporting required or adopted,
9 the amount of which penalty shall in no case be less than
10 twenty-five dollars (or if no sales or purchases were made, a
11 penalty of twenty-five dollars) plus an additional penalty of
12 two per centum of such tax and penalty for each month the
13 same remains unpaid, such tax and penalty to be paid or col-
14 lected in the same manner as the tax imposed by this act is re-
15 quired to be paid or collected. If any such person shall fail to
16 pay such tax or penalty within sixty days after the same shall
17 be due, the tax commissioner shall cause appropriate action for
18 the recovery thereof to be brought in the name of the state, and
19 it shall be the duty of the attorney general of this state or the
20 prosecuting attorney of any county to commence and prosecute
21 such suit at the request of the tax commissioner, and judgment
22 shall be rendered for the amount found to be due, together with
23 costs, and the amount collected shall be paid into the state treas-
24 ury. *Provided, however,* that if it shall be found that such
25 failure to pay was willful on the part of such person judgment
26 shall be rendered for double the amount of tax and penalty
27 found to be due, with costs. Judgments for such tax and pen-
28 alty and costs shall constitute and remain a preferred lien upon
29 the property, assets and effects of such person until paid. Such
30 suits shall be by notice of motion for judgment, an action in
31 debt or assumpsit, or by any other appropriate remedy under
32 the general law, and shall be tried by preference. Delinquent
33 license taxes imposed by section two of this act shall be collected
34 in like manner.

Sec. 14. Each dealer when selling gasoline to any other
2 dealer or person shall render an invoice to the purchaser and
3 upon such invoice the dealer so selling shall plainly state
4 whether or not the gallonage of gasoline will be included in the
5 measure of tax to be paid by him, and the person so buying and
6 receiving such gasoline may, as regards his report to the tax
7 commissioner, fully rely upon the statements so made in such
8 invoice.

9 If any person shall state, upon any such invoice rendered,
10 that the gallonage covered in the invoice will be included in
11 the measure of tax assessable to him and he shall fail to report
12 such gallonage and pay the tax thereon to the tax commissioner

13 as herein provided, he shall be guilty of embezzlement of funds,
14 the property of the state of West Virginia, and, upon convic-
15 tion, shall be confined in the penitentiary not less than one nor
16 more than five years. Such penalty shall be in addition to that
17 imposed by section thirteen of this act.

Sec. 15. If any person after the thirtieth day of June, one
2 thousand nine hundred and twenty-five, shall engage or con-
3 tinue in the activity for which the special excise tax herein pro-
4 vided for is imposed, he shall have been deemed to have ap-
5 plied for and to have duly obtained from the state of West Vir-
6 ginia a proper license therefor for the month ending on the last
7 day thereof next following the date of the beginning of any
8 such activity, upon the condition that he shall pay the tax ac-
9 cruing to the state of West Virginia and at the time required
10 by this act; and he shall be duly licensed. And in the case of
11 any person proceeding in any such activity without the license
12 granted him through the payment of the tax herein levied, the
13 state tax commissioner is directed to bring action in the circuit
14 court of the county having jurisdiction of the party with a
15 view to enjoining said person from engaging or continuing in
16 such activity. Further, if any person distributes or sells gaso-
17 line after June thirtieth, one thousand nine hundred and
18 twenty-five, without having paid the license tax imposed herein
19 and without having at all times conspicuously displayed at his
20 place of business or agency a license certificate evidencing the
21 payment of said license tax for the then current year or frac-
22 tional part thereof, or if any distributor, retail dealer, importer,
23 or other person making deliveries of gasoline in West Virginia,
24 or any person required to file returns under section eleven of
25 this act, or the officers, directors, trustees or members of any
26 firm, co-partnership, joint adventure, association, corporation,
27 trust, or any other group acting as a unit, fail, refuse, or neg-
28 lect to make the returns required within the time and in the
29 manner prescribed, or who shall refuse to permit the tax com-
30 missioner, or his duly appointed agent, to examine the books
31 or papers of such person, pertaining to gasoline sales or re-
32 ceipts, or who makes any incomplete, false or fraudulent re-
33 turns hereunder, or who does, or attempts to do, anything what-
34 soever to avoid the full disclosure of the amount of business
35 done, or to avoid the payment of the whole or any part of the
36 tax due, shall be guilty of a misdemeanor, and, upon conviction,

37 shall be fined not exceeding one thousand dollars, or in the case
38 of an individual, he may be imprisoned not exceeding six
39 months, or both.

Sec. 16. Any distributor who shall export gasoline from
2 West Virginia to any other state or nation or who shall in the
3 conduct of his wholesale gasoline business sustain losses of gaso-
4 line by reason of leakage or evaporation, which gasoline shall
5 have been included in the measure by which the ex-
6 cise tax imposed by this act is determined, shall be reimbursed
7 and repaid a sum equal to the amount of such excise tax on the
8 gallonage so exported or lost, upon his presenting to the tax
9 commissioner a sworn statement, on forms prescribed by the tax
10 commissioner, of the quantity of and full details concerning
11 such gasoline exported or lost; *provided*, that application for
12 refunds herein provided shall be filed with the tax commis-
13 sioner within thirty days after the close of the month during
14 which gasoline was exported or lost, or not at all.

Sec. 17. Any person who shall buy, in quantities of twenty-
2 five gallons or more at any one time, any gasoline as defined in
3 this act for the purpose of, and the same is actually used for
4 operating and propelling boats, tractors used for agricultural
5 purposes, or who shall purchase and use any of such gasoline for
6 cleaning or dyeing or other commercial uses, except in motor
7 vehicles operated, or intended to be operated in whole or in part
8 upon any of the public highways, streets or alleys of this state,
9 which gasoline shall have been previously included in the meas-
10 ure by which the excise tax imposed by this act is determined,
11 shall be reimbursed and repaid a sum equal to the amount of such
12 tax, upon presenting to the tax commissioner an affidavit ac-
13 companied by a ticket, invoice or other document from the
14 distributor or retail dealer, showing such purchase, which affi-
15 davit shall set forth the total amount of such gasoline purchased
16 and used by such consumer, other than in motor vehicles oper-
17 ated or intended to be operated upon any of the public high-
18 ways, streets or alleys of this state, and how used; and the tax
19 commissioner, upon the receipt of such affidavit and ticket, in-
20 voice or other document, shall cause to be refunded to such
21 consumer the said tax paid on gasoline sold and delivered and
22 used other than for motor vehicles as aforesaid; *provided*, that
23 application for refund as provided herein must be filed with
24 tax commissioner within sixty days from the date of sale or

25 invoice, on forms prepared and furnished by the tax commis-
26 sioner, or not at all. *Provided, further,* that no refunds shall
27 be allowed under authority of this section on gasoline purchased
28 and used for any purpose when the same shall be re-used for
29 the purpose of propelling motor vehicles.

30 If any person shall make a false or fraudulent claim for
31 refund he shall be guilty of a felony and, upon conviction, shall
32 be confined in the penitentiary not less than one nor more than
33 five years.

Sec. 18. All taxes collected under the provisions of this act
2 shall be paid into the state treasury and shall be used only for
3 the purpose of the reconstruction, maintenance and repair of
4 roads and highways, and for the payment of the interest on
5 state bonds issued for road purposes. Any moneys received by
6 the state and required to be repaid shall be treated as moneys
7 erroneously paid into the treasury and refunds shall be made
8 and be payable out of the same fund into which paid.

Sec. 19. The state tax commissioner is hereby invested with
2 full power and authority and it is hereby made his duty to pre-
3 scribe forms for returns and assessments and to make, issue
4 and put in force all necessary and needful rules and regulations
5 for ascertaining, assessing and collecting the taxes imposed by
6 this act and the enforcement of the provisions thereof.

Sec. 20. The provisions of this act are severable and if any
2 shall be held unconstitutional the decision of the court shall
3 not affect or impair any of the remaining provisions hereof. It
4 is hereby declared as a legislative intent that this act would
5 have been adopted had such unconstitutional provisions not
6 been included therein.

Sec. 21. Chapter thirty-four of the acts of the legislature of
2 one thousand nine hundred and twenty-three is hereby repealed,
3 but said chapter shall remain in full force and effect for the
4 ascertainment, assessment and collection of all taxes and penal-
5 ties which have accrued or may accrue thereunder up to and
6 including June thirtieth, one thousand nine hundred and
6 twenty-five.

All acts and parts of acts inconsistent herewith, of the regular
session of one thousand nine hundred and twenty-five, are hereby
repealed.

CHAPTER 3

(House Bill No. 7—By Mr. Robinson from the Select Committee)

AN ACT to amend and re-enact section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia, one thousand nine hundred and nine, regular session, and as further amended and re-enacted by an act of the legislature of West Virginia, regular session, one thousand nine hundred and twenty-five, relating to offenses against the peace; providing for the granting and revoking of licenses and permits respecting the use, transportation and possession of weapons and fire arms; restricting the manner of the sale and display of weapons and fire arms; imposing liability upon certain persons for the accidental or improper, negligent or illegal discharges of weapons and fire arms; defining the powers and duties of certain officers in the granting and revocation of said licenses and permits, and providing penalties for the violation of this act and any part thereof.

[Passed June 5, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec.

7. (a) Penalty for carrying dangerous or deadly weapon without license; second offense; duties of prosecuting attorneys; application for license; what to show; publication; issuance; fee; bond; term of license; territory covered; deputy sheriffs and railway police licenses co-extensive with state; accounting for fees; forms by tax commissioner; certified copy of license to superintendent of department of public safety; list of all licenses to the same; lawful to carry arms on own premises, or from place of purchase and repair, not applicable to employee; permits to express company employees and railway police; bonds; emergency permits; reports of violations, and penalty

Sec.

for failure so to do; certain officers permitted to carry arms; bond; unlawful to carry or use weapon in a manner likely to cause breach of peace; penalty; revocation of license; notice; reinstatement.

7. (b) Permits for possession of machine gun and high-powered rifle; regulations; exception of rifle club members and licensed hunters; granting of permit; fee; revocation; confiscation of arms; alien prohibited from owning or possessing arms; display of arms for sale or rent prohibited; report of sales by dealers to superintendent of department of public safety; unlawful to arm alien; penalty for violations of this sub-section; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and forty-eight of the code of West Virginia, as amended and re-enacted by chapter fifty-one of the acts of the legislature of West Virginia of one thousand nine hundred and nine, regular session, and as further amended and re-enacted by the legislature of West Virginia, one thousand nine hundred and twenty-five, regular session, in House Bill number four hundred six, be amended and re-enacted so as to read as follows:

Section 7 (a). If any person, without a state license therefor, 2 carry about his person any revolver or other pistol, dirk, 3 bowie-knife, slung shot, razor, billy, metallic or other false 4 knuckles, or any other dangerous or deadly weapon of like 5 kind or character, he shall be guilty of a misdemeanor and 7 upon conviction thereof be confined in the county jail for a 8 period of not less than six nor more than twelve months for 9 the first offense; but upon conviction of the same person for 10 the second offense in this state, he shall be guilty of a felony 11 and be confined in the penitentiary not less than one or more 12 than five years, and in either case fined not less than fifty 13 nor more than two hundred dollars, in the discretion of the 14 court; and it shall be the duty of the prosecuting attorney 15 in all cases to ascertain whether or not the charge made by 16 the grand jury is the first or second offense, and if it shall be 17 the second offense, it shall be so stated in the indictment re- 18 turned, and the prosecuting attorney shall introduce the rec- 19 ord evidence before the trial court of said second offense, and 20 shall not be permitted to use his discretion in charging said 21 second offense nor in introducing evidence to prove the same 22 on the trial; *provided*, that boys or girls under the age of 23 eighteen years, upon the second conviction, may, at the dis- 24 cretion of the court, be sent to the industrial homes for boys 25 and girls, respectively, of the state. Any person desiring to 26 obtain a state license to carry any such weapon within one or 27 more counties in this state shall first publish a notice in some 28 newspaper, published in the county in which he resides, setting 29 forth his name, residence and occupation, and that on a cer- 30 tain day he will apply to the circuit court of his county for 31 such state license; and after the publication of such notice for 32 at least ten days before said application is made and at the 33 time stated in said notice upon application to said court, it 34 may grant such person a license in the following manner, 35 to-wit:

36 The applicant shall file with said court his application in 37 writing, duly verified, which said application shall show:

38 *First*: That said applicant is a citizen of the United States 39 of America.

40 *Second*: That such applicant has been a *bona fide* resident 41 of this state for at least one year next prior to the date of 42 such application, and of the county sixty days next prior 43 thereto.

44 *Third:* That such applicant is over twenty-one years of
45 age; that he is a person of good moral character, of temper-
46 ate habits, not addicted to intoxication, and has not been
47 convicted of a felony nor of any offense involving the use on
48 his part of such weapon in an unlawful manner.

49 *Fourth:* The purpose or purposes for which the applicant
50 desires to carry such weapon and the necessity therefor and
51 the county or counties in which said license is desired to be
52 effective.

53 Upon the hearing of such application the court shall hear
54 evidence upon all matters stated in such application and upon
55 any other matter deemed pertinent by the court, and if such
56 court be satisfied from the proof that there is good reason and
57 cause for such person to carry such weapon, and all of the
58 other conditions of this act be complied with, said circuit
59 court or the judge thereof in vacation, may grant
60 said license for such purposes, and no other, as said
60-a circuit court may set out in the said license (and the word
60-b "court" as used in this act shall include the circuit judge
60-c thereof, acting in vacation); but before the said
61 license shall be effective such person shall pay to the
62 sheriff, and the court shall so certify in its order granting the
63 license, the sum of twenty dollars, and shall also file a bond
64 with the clerk of said court, in the penalty of three thousand
65 five hundred dollars, with good security, signed by a respon-
66 sible person or persons, or by some surety company, author-
67 ized to do business in this state, conditioned that such appli-
68 cant will not carry such weapon except in accordance with his
69 said application and as authorized by the court, and that he
70 will pay all costs and damages accruing to any person by the
71 accidental discharge or improper, negligent or illegal use of
72 said weapon or weapons. Any such license granted after this
73 act becomes effective shall be good for one year, unless sooner
74 revoked, as hereinafter provided, and be co-extensive with the
75 county in which granted, and such other county or coun-
76 ties as the court shall designate in the order granting such
77 license; except that regularly appointed deputy sheriffs having
78 license shall be permitted to carry such revolver or other
79 weapons at any place, within the state, while in the perfor-
80 mance of their duties as such deputy sheriffs and except that
81 any such license granted to regularly appointed railway police

82 shall be co-extensive with the state, and all license fees col-
83 lected hereunder shall be paid by the sheriff and accounted for
84 to the auditor as other license taxes are collected and paid, and
85 the state tax commissioner shall prepare all suitable forms for
86 licenses and bonds and certificates showing that such license
87 has been granted and to do anything else in the premises to
88 protect the state and see to the enforcement of this act.

89 The clerk of the court shall immediately after license is
90 granted as aforesaid, furnish the superintendent of the de-
91 partment of public safety a certified copy of the order of the
92 court granting such license, for which service the clerk shall
93 be paid a fee of two dollars which shall be taxed as cost in
94 the proceeding; within thirty days after this act becomes
95 effective it shall be the duty of the clerks of each court in this
96 state having jurisdiction to issue pistol licenses to certify
97 to the superintendent of the department of public safety a
98 list of all such licenses issued in his county.

99 *Provided*, that nothing herein shall prevent any person
100 from carrying any such weapon, in good faith and not for a
101 felonious purpose, upon his own premises, nor shall anything
102 herein prevent a person from carrying any such weapon
103 (unloaded) from the place of purchase to his home
104 or place of residence, or to a place of repair and
105 back to his home or residence; but nothing herein
106 shall be construed to authorize any employee of any person,
107 firm or corporation doing business in this state to carry on
108 or about the premises of such employer any such pistol, or
109 other weapon mentioned in this act for which a license is
110 herein required, without having first obtained the license and
111 given the bond as herein provided; and, *provided, further*,
112 that nothing herein shall prevent agents, messengers and
113 other employees of express companies doing business as com-
114 mon carriers, whose duties require such agents, messengers
115 and other employees to have the care, custody or protection
116 of money, valuables and other property for such express com-
117 panies, from carrying any such weapon while actually en-
118 gaged in such duties, or in doing anything reasonably inci-
119 dent to such duties; *provided*, such express company shall
120 execute a continuing bond in the penalty of thirty thousand
121 dollars, payable unto the state of West Virginia, and with
122 security to be approved by the secretary of state of the state

123 of West Virginia, conditioned that said express company will
124 pay all damages, accruing to anyone by the accidental dis-
125 charge or improper, negligent or illegal discharge or use of such
126 weapon or weapons by such agent, messenger or other employee
127 while actually engaged in such duties for such express com-
128 pany, in doing anything that is reasonably incident to such du-
129 ties; but the amount which may be recovered for breach of
130 such condition shall not exceed the sum of three thousand five
131 hundred dollars in any one case, and such bond shall be filed
132 with and held by the said secretary of state, for the purpose
133 aforesaid, but upon the trial of any cause for the recovery of
134 damages upon said bond, the burden of proof shall be upon
135 such express company to establish that such agent, messenger
136 or other employee was not actually employed in such duties for
137 such express company nor in doing anything that was rea-
138 sonably incident to such duties at the time such damages were
139 sustained; and, *provided further*, that nothing herein shall
139-a prevent railroad police officers duly appointed and qualified
139-b under authority of section thirty-one of chapter one hun-
139-c dred forty-five of Barnes' code or duly qualified under the
139-d laws of any other state, from carrying any such weapon
139-e while actually engaged in their duties or in doing anything
139-f reasonably incident to such duties; *provided*, such railroad
139-g company shall execute a continuing bond in the penalty of
139-h ten thousand dollars payable unto the state of West Vir-
139-i ginia and with security to be approved by the secretary of
139-j state of the state of West Virginia conditioned that said
139-k railroad company will pay all damages accruing to anyone
139-l by the accidental discharge or improper, negligent or illegal
139-m discharge or use of such weapon or weapons by such rail-
139-n road special police officer whether appointed in this or some
139-n-1 other state while actually engaged in such duties for such
139-o railroad company, in doing anything that is reasonably inci-
139-p dent to such duties, but the amount which may be recovered
139-q for breach of such condition shall not exceed the sum of
139-r three thousand five hundred dollars in any one case, and
139-s such bond shall be filed with and held by the said secretary
139-t of state for the purpose aforesaid but upon the trial of any
139-u cause for the recovery of damages upon said bond, the bur-
139-v den of proof shall be upon such railroad company to estab-
139-w lish that such railroad police officer was not actually em-

139-*x* ployed in such duties for such railroad company nor in
139-*y* doing anything that was reasonably incident to such duties
139-*z* at the time such damages were sustained; and *provided, fur-*
140 *ther,* that in case of riot, public danger and emer-
140-*a* gency, a justice of the peace, or other person
141 issuing a warrant, may authorize a special constable and his
142 posse whose names shall be set forth in said warrant,
142-*a* to carry weapons for the purpose of executing a pro-
143 cess, and a sheriff in such cases may authorize a deputy or
144 posse to carry weapons, but the justice shall write in his
145 docket the cause and reasons for such authority and the name
146 of the person, or persons, so authorized, and index the same,
147 and the sheriff or other officer shall write out and file with
148 the clerk of the county court the reasons and causes for such
149 authority and the name, or names of the persons so author-
150 ized, and the same shall always be open to public inspection,
151 and such authority shall authorize such special constable,
152 deputies and posses to carry weapons in good faith only for
153 the specific purposes and times named in such authority, and
154 upon the trial of every indictment the jury shall inquire into
155 the good faith of the person attempting to defend such in-
156 dictment under the authority granted by any such justice,
157 sheriff or other officer, and any such person or persons so
158 authorized shall be personally liable for the injury caused to
159 any person by the negligent or unlawful use of any such
160 weapon or weapons. It shall be the duty of all ministerial of-
161 ficers, consisting of the justices of the peace, notaries public and
162 other conservators of the peace of this state, to report to the
163 prosecuting attorney of the county the names of all persons
164 guilty of violating this section, and any person wilfully failing
165 so to do, shall be guilty of a misdemeanor and shall be fined not
166 exceeding two hundred dollars, and shall, moreover, be liable
167 to removal from office for such wilful failure; and it shall
168 likewise be the duty of every person having knowledge of the
169 violation of this act, to report the same to the prosecuting
170 attorney, and to freely and fully give evidence concerning
171 the same, and any one failing so to do, shall be guilty of a
172 misdemeanor and upon conviction thereof shall be fined not
173 exceeding one hundred dollars; *provided, further,* that noth-
174 ing herein contained shall be so construed as to prohibit sher-
175 iffs, their regularly appointed deputies, who actually collect

176 taxes in each county, and all constables in their respective
177 counties and districts, and all regularly appointed police offi-
178 cers of their respective cities, towns or villages, all jailors and
179 game protectors who have been duly appointed as such, and
179-a members of the department of public safety of this
179-b state, from carrying such weapons as they are now
180 authorized by law to carry, who shall have given
181 bond in the penalty of not less than three thousand five hun-
182 dred dollars, conditioned for the faithful performance of their
183 respective duties, which said officers shall be liable upon their
184 said official bond, for the damages done by the unlawful or
185 careless use of any such weapon or weapons, whether such
186 bond is so conditioned or not.

187 It shall be unlawful for any person armed with a pistol,
188 gun, or other dangerous or deadly weapon, whether licensed
189 to carry same or not, to carry, expose, brandish, or use, such
190 weapon in a way or manner to cause, or threaten, a breach
191 of the peace. Any person violating this provision of this act
192-4 shall be guilty of a misdemeanor, and upon conviction, shall
195 be fined not less than fifty nor more than three hundred
196 dollars or imprisoned in the county jail not less than thirty
197 nor more than ninety days, or be punished by both fine and
198 imprisonment in the discretion of the court.

199 Any circuit court granting any such license to carry any
200 of the weapons mentioned in this act, the governor, or the su-
201 perintendent of the department of public safety, with the con-
202 sent of the governor, may, for any cause deemed sufficient by
203 said court, or by the governor or by the superintendent of the
204 department of public safety with the approval of the governor
205 aforesaid, as the case may be, revoke any such license to carry
205-a a pistol or other weapon mentioned in this act for which a
205-b license is required, and immediate notice of such revocation
206 shall be given such licensee in person, by registered mail or in
207 the same manner as provided by law for the service of other
208 notices, and no person whose license has been so revoked shall
209 be re-licensed within one year thereafter; *provided*, that the
210 authority so revoking such license may, after a hearing, sooner
211 reinstate such licensee.

212 (b) It shall be unlawful for any person to carry, transport,
213 or to have in his possession any machine gun, sub-machine gun,
214 and what is commonly known as a high powered rifle, or any

215 gun of similar kind or character, or any ammunition therefor,
216 except on his own premises or premises leased to him for a
217 fixed term, until such person shall have first obtained a per-
218 mit from the superintendent of the department of public
219 safety of this state, and approved by the governor, or until a
220 license therefor shall have been obtained from the circuit
221 court as in the case of pistols and all such licenses together
222 with the numbers identifying such rifle shall be certified to
223 the superintendent of the department of public safety. *Pro-*
224 *vided, further,* that nothing herein shall prevent the use of
225 rifles by *bona fide* rifle club members who are freeholders or
226 tenants for a fixed term in this state at their usual or cus-
227 tomary place of practice, or licensed hunters in the actual
228 hunting of game animals. No such permit shall be granted
229 by such superintendent except in cases of riot, public danger,
230 and emergency, until such applicant shall have filed his writ-
231 ten application with said superintendent of the department
232 of public safety, in accordance with such rules and regula-
233 tions as may from time to time be prescribed by said depart-
234 ment of public safety relative thereto, which application shall
235 be accompanied by a fee of two dollars to be used in defraying
236 the expense of issuing such permit, and said application shall
237 contain the same provisions as are required to be shown under
238 the provisions of this act by applicants for pistol license, and
239 shall be duly verified by such applicant, and at least one
240 other reputable citizen of this state. Any such permit as
241 granted under the provisions of this act may be revoked by the
242 governor at his pleasure and upon the revocation of any such
243 permit the department of public safety shall immediately seize
244 and take possession of any such machine gun, sub-machine
245 gun, high powered rifle, or gun of similar kind and character,
246 held by reason of said permit, and any and all ammunition
247 therefor, and the said department of public safety shall also
248 confiscate any such machine gun, sub-machine gun, and what
249 is commonly known as a high powered rifle, or any gun of
250 similar kind and character and any and all ammunition there-
251 for so owned, carried, transported or possessed contrary to the
252 provisions of this act, and shall safely store and keep the same,
253 subject to the order of the governor. No alien shall own, keep
254 or possess any firearm of any kind or character. It shall be
255 unlawful for any person, firm or corporation to place or keep

- 256 on public display to passersby on the streets, for rent or sale.
 257 any revolver, pistol, dirk, bowie knife, slung shot or other
 258 dangerous weapon of like kind or character or any machine
 259 gun, sub-machine gun or high powered rifle or any gun of
 260 similar kind or character, or any ammunition for the same.
 261 All dealers licensed to sell any of the foregoing arms or
 262 weapons shall take the name, address, age and general appear-
 263 ance of the purchaser, as well as the maker of the gun, manu-
 264 facturer's serial number and caliber, and report the same at
 265 once in writing to the superintendent of the department of
 266 public safety.
 267 It shall be unlawful for any person to sell, rent, give or
 268 lend any of the above mentioned arms to an unnaturalized
 269 person.
 270 Any person violating the provisions of sub-section (b) of
 271 this act shall be guilty of a misdemeanor and upon conviction
 272 thereof shall be fined not less than fifty dollars, nor more than
 273 three hundred dollars, or confined in the county jail not less
 274 than thirty days nor more than six months, or both such fine
 275 and imprisonment, in the discretion of the court.
 276 All acts and parts of acts inconsistent herewith are hereby
 277 repealed.

CHAPTER 4

(Senate Bill No. 4—By Joint Special Committee)

AN ACT making appropriations of public moneys to pay general charges upon the treasury.

[Passed June 6, 1925; in effect from passage. Approved by the Governor.]

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| <p>Sec. 1. Appropriations made from the treasury.</p> <p>2. Fiscal years of 1926 and 1927.</p> <p>3. Appropriations under sub-sections "A," "B" and "C" payable out of the general revenue of the state.</p> <p style="text-align: center;"><i>Sub-Section "A"</i></p> <p>4. Construction and equipment of second unit of office building of new capitol; Governor to sell all state property on Capitol and Summers streets in Charleston; proceeds to be paid into the treasury as a special capitol building fund; Governor may continue capitol building commission, by re-appointment; limit of total</p> | <p>Sec. cost of new capitol; authorizing construction and limiting cost of second office building.</p> <p>5. Appropriations for maintenance and repair of roads; in "state fund general revenue" not otherwise appropriated to be used for road maintenance.</p> <p>5-a. Recodification commission; salary and expenses of the commission, assistants and stenographers; expenses of the legislative committee; this an additional appropriation.</p> <p style="text-align: center;"><i>Sub-Section "B"</i></p> <p>6. Appropriations appearing under sub-section "B" payable only on requisition and approval of the state board of control.</p> |
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| <p>Sec.
7. Appropriation for State Colored Hospital for the Insane.
8. Appropriation for State Tuberculosis Sanitarium.
9. Appropriation for West Virginia Industrial School for Boys.
10. Appropriation for West Virginia Industrial Home for Girls.
11. Appropriation for West Virginia University.
12. Appropriation for Concord State Normal School.
12-a. Appropriation for West Liberty State Normal School.
12-b. Appropriation for Glenville State Normal School.
12-c. Appropriation for Potomac State School.
13. Appropriation for 4-H Camp at Jackson's Mills.
14. Appropriation for West Virginia Collegiate Institute.
15. Appropriation for West Virginia School for Deaf and Blind.
15-a. Appropriation for State aid to high schools with short term normal courses.
<i>Sub-Section "C"</i>
16. Appropriations under sub-section "C" payable only on requisition and approval of the state board of control.
17. Purchase of land and construction of state buildings on a</p> | <p>Sec.
three-year plan.
18. Appropriation for West Virginia University.
19. Appropriation for Marshall College.
20. Appropriation for Fairmont State Normal School.
<i>Sub-Section "D"</i>
21. Appropriations appealing under sub-section "D" payable out of state road fund.
22. Appropriation for Automobile Bureau; licenses; where issued; registration fees to become part of state road fund; available at once.
<i>Sub-Section "E"</i>
23. Refunding over-payments into the treasury.
24. Appropriation for state boards or institutions may be drawn from treasury upon requisition of proper officers thereof; auditor to issue warrants.
25. Appropriations for university in 1923 continued and made available for purposes originally stated.
26. Clerk of the House and Clerk of the Senate to jointly furnish certified copies of all appropriations to auditor and treasurer without delay.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out 2 of the treasury for the fiscal year ending June thirty, one 3 thousand nine hundred and twenty-six, and for the fiscal year 4 ending June thirty, one thousand nine hundred and twenty- 5 seven, and for the remainder of the fiscal year ending June 6 thirty, one thousand nine hundred and twenty-five, the fol- 7 lowing sums of money for the following-named purposes:

Sec. 2. The amounts appearing in the column headed 2 "1926" are for the fiscal year ending June thirty, one thou- 3 sand nine hundred and twenty-six, and the amounts appear- 4 ing in the column headed "1927" are for the fiscal year end- 5 ing June thirty, one thousand nine hundred and twenty-seven.

Sec. 3. All appropriations appearing under sub-sections 2 "A," "B" and "C" are payable out of the general revenue 3 of the state.

SUB-SECTION "A"

New Capitol

	1926	1927
Sec. 4. For the construction		
2 and equipment of a second unit		
3 or office building of the new		
4 state capitol	\$ 450,000.00	\$ 450,000.00

5 The governor is hereby authorized
6 and empowered to sell all the
7 real estate owned by the state
8 of West Virginia on Capitol
9 and Summers streets, in the
10 city of Charleston, being the
11 property now occupied by the
12 governor's mansion, temporary
13 capitol and state board of con-
14 trol, for the best price and on
15 the best terms available, and
16 to receive the proceeds thereof.
17 Such proceeds shall be paid into
18 the state treasury and shall
19 constitute a special fund which
20 is likewise hereby appropri-
21 ated and shall, together with
22 the foregoing appropriation,
23 so far as necessary, be ex-
24 pended by and under the direc-
25 tion of the governor or the gov-
26 ernor and the capitol building
27 commission, if the governor, in
28 his discretion, shall desire to
29 continue said commission by re-
30 appointment.

32 It is further provided that the
33 total cost of the capitol building
34 or buildings shall not exceed in
35 the aggregate the sum of five
36 million dollars, as provided by
37 chapter one hundred forty-seven,
38 section thirty-two-b, of the acts
39 of the legislature of the year
40 one thousand nine hundred and
41 twenty-three.

42 It is further provided that author-
43 ity is hereby given to construct
44 said second office building at a
45 cost not to exceed one million
46 four hundred thousand dollars.

Maintenance and Repair of Roads

Sec. 5. There is hereby appropriated out of the general state fund of the state of West Virginia, for the maintenance and repair of roads, for the year ending June thirty, one thousand nine hundred and twenty-six, the sum of \$ 400,000.00

For the year ending June thirty, one thousand nine hundred and twenty-seven, the sum of \$ 450,000.00

Any surplus remaining in the "state fund general revenue" at the end of each year, June thirtieth, one thousand nine hundred and twenty-six, and June thirtieth, one thousand nine hundred and twenty-seven, and not otherwise appropriated, is hereby appropriated for the maintenance of roads, and the governor is hereby authorized to cause to be transferred said surplus from the "state fund general revenue" to the "state road fund."

Recodification Commission

Sec. 5-a. Salary of the commission		
to recodify the general statutes..	\$ 9,000.00	\$ 9,000.00
Expenses of the recodification commission, including compensation of assistants, stenographers, and all other expenses	24,000.00	12,000.00

Such part as may be necessary shall be used to defray the expenses of any joint legislative committee authorized to confer with the recodification commission created by a joint resolution of the legislature. The appropriations authorized under this section for the year ending June thirty, one thousand nine hundred and twenty-six, are in addition to the appropriations authorized for said purposes by

19 the acts of one thousand nine hun-
20 dred and twenty-five, regular ses-
21 sion.

SUB-SECTION "B"

Sec. 6. All appropriations appearing under sub-section "B"
2 are payable only on the requisition and approval of the state
3 board of control.

State Colored Hospital for the Insane

Sec. 7. Buildings and land..	50,000.00	50,000.00
2 An additional building for em- 3 ployees' quarters, dining room, 4 kitchen, store room, cold stor- 5 age, ice plant and bakery.		

State Tuberculosis Sanitarium

Sec. 8. Buildings and land..	75,000.00	75,000.00
2 For the construction of two addi- 3 tional hospital buildings.		

West Virginia Industrial School for Boys

Sec. 9. Buildings and land....	50,000.00	50,000.00
2 For trades or shop buildings and 3 barns.		

West Virginia Industrial Home for Girls

Sec. 10. Buildings and land..	37,500.00	37,500.00
2 New cottage.		

West Virginia University

Sec. 11. For completion and 2 equipment of chemistry build- 3 ing	100,000.00	100,000.00
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Concord State Normal School

Sec. 12. Buildings and land..	15,000.00	15,000.00
2 Dormitory for boys.		

West Liberty State Normal School

Sec. 12-a. Buildings and land. 2 Administration Building	50,000.00	50,000.00
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Glenville State Normal School

Sec. 12-b. Building and land.		
2	Home for president.....	5,000.00 5,000.00

Potomac State School

Sec. 12-c.	For buildings.....	50,000.00 50,000.00
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4-H Camp at Jackson's Mills

Sec. 13. Building for Super-		
2	intendent	5,000.00 5,000.00

West Virginia Collegiate Institute

Sec. 14. Buildings and land...		
2	Dormitory for boys.	62,500.00 62,500.00

West Virginia School for the Deaf and Blind

Sec. 15. Buildings and land...		
2	Trades or shop building.	25,000.00 25,000.00

State Aid to High Schools

Sec. 15-a. Supplemental aid for		
2	twenty-five high schools au-	
3	thorized to give the short term	
4	normal course, to be distrib-	
5	uted among said schools....	25,000.00 25,000.00

SUB-SECTION "C"

Sec. 16. All appropriations appearing under sub-section
2 "C" are payable only on the requisition and approval of the
3 state board of control.

Sec. 17. The improvements authorized under sub-section
2 "C" are to be carried out on a three-year plan, the cost to
3 be distributed over a three-year period, and the state board of
4 control is hereby authorized to contract for the purchase of
5 land or the construction of buildings having an aggregate cost
6 of one-half more than the aggregate amount appropriated for
7 the two years ending June thirtieth, one thousand nine hundred
8 and twenty-six, and June thirtieth, one thousand nine hundred
9 and twenty-seven, the additional cost or appropriation to be
10 provided out of the revenues for the year ending June thirtieth,
11 one thousand nine hundred and twenty-eight.

West Virginia University

Sec. 18. Buildings and land . . .	25,000.00	25,000.00
2 To supplement the appropriation		
3 made by the one thousand nine		
4 hundred and twenty-three legis-		
5 lature for physical education		
6 building, the appropriations to		
7 be used for the construction of		
8 physical education building for		
9 girls.		

Marshall College

Sec. 19. Buildings and land . .	65,000.00	65,000.00
2 For the purchase of additional		
3 land.		

Fairmont State Normal School

Sec. 20. Buildings and land . .	21,700.00	21,700.00
2 For the purchase of additional		
3 land.		

SUB-SECTION "D"

Sec. 21. All appropriations ap-		
2 pearing under Sub-section "D"		
3 are payable out of the state road		
4 fund of the state.		

Automobile Bureau

Sec. 22. To pay all expenses,		
2 including postage, printing and		
3 clerical expenses necessary to		
4 carry out the provisions of		
5 house bill two hundred and		
6 eighty- one, regular session one		
7 thousand nine hundred and		
8 twenty-five, relating to the reg-		
9 istration of motor vehicles . . .	30,000.00	20,000.00
10 All licenses for all classes of		
11 motor vehicles shall be issued		
12 from the central office of the		
13 state road commission, or at		
14 such agencies as shall be desig-		

15 nated by said commission.
16 All fees collected for registration
17 of motor vehicles are to become
18 a part of the state road fund,
19 and the appropriations made
20 herein shall be paid from said
21 fund. The appropriation made
22 for the year one thousand nine
23 hundred and twenty-six shall
24 become available for use upon
25 the passage of this act.

SUB-SECTION "E"

Sec. 23. For refunding overpayments made into the treasury
2 on account of taxes, licenses, fines and commissions, to be paid
3 out of the fund into which they were paid, such an amount as
4 may be necessary for such purpose is hereby appropriated.

Sec. 24. The appropriations herein made to or for any state
3 board or institution shall be drawn from the treasury upon the
3 requisition of the proper officers thereof made upon the auditor
4 at such times and in such amounts as may be necessary for the
5 purposes for which such appropriations are made; and the audi-
6 tor shall pay the amount named in any such requisition at such
7 time and in such installments as shall be necessary for the pur-
8 poses for which any such appropriation is made. The auditor
9 shall not issue his warrants to pay any money out of the state
10 treasury unless the same is needed for present use.

Sec. 25. Appropriations made by the one thousand nine
2 hundred and twenty-three Legislature for buildings and land
3 at West Virginia University, remaining unexpended June four-
4 teen, one thousand nine hundred and twenty-six, are hereby
5 continued in effect and made available for expenditure during
6 such time as would be authorized by law had said appropriations
7 been originally made by this appropriation bill.

Sec. 26. Upon the adjournment of this session of the Legis-
2 lature, the clerk of the house and the clerk of the senate shall
3 jointly make up and furnish the auditor and treasurer, without
4 delay, a certified copy of this and all other acts carrying appro-
5 priations.

CHAPTER 5

(Senate Bill No. 16—By Mr. Hogg)

AN ACT making appropriations of public moneys to pay the mileage of the members of the legislature for the extraordinary session of the one thousand nine hundred and twenty-five, and for the salaries of the officers and attaches and other expenses thereof.

[Passed June 6, 1925; in effect from passage. Approved by the Governor.]

Sec.

1. Appropriations to pay the expense of the first extraordinary session of the legislature.
2. House of Delegates.
3. Compensation of elective officers; compensation of Speaker's appointees (first two days of session); compensation of Clerk's appointees; compensation of Speaker's appointees for part of the session beginning May 25; compensation of Clerk's appointees; joint legislative committee!

Sec.

- additional expenses; miscellaneous appropriations.
4. Senate, mileage of members; compensation and *per diem* of elective officers; President's appointees; Clerk's appointees; contingent fund.
5. Senate, miscellaneous appropriations; expenses of joint legislative committee.
6. Auditor authorized to issue warrants to pay members, officers and attaches of the legislature.

Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out of the treasury for the fiscal year ending June thirty, one thousand nine hundred and twenty-five the following sums of money for the following named purposes:

House of Delegates

Sec. 2.	Mileage of members of House of Delegates	\$	3,233.80
2	gates		
3	Salary, D. M. Jarrett, member from Boone County,		
4	for 1925		500.00
5	Per diem of the Speaker of the House, at \$2.00 per		
6	day,		30.00
7	Contingent fund of the House of Delegates		4,000.00

Compensation Other Elective Officers

Sec. 3.	Compensation of clerk for services rendered during the extraordinary session and recess period, and for the time necessary to complete the work of this session, indexing and printing the corrected journals, and preparing and printing the acts of this session		1,250.00
2	ered during the extraordinary session and recess		
3	period, and for the time necessary to complete		
4	the work of this session, indexing and printing		
5	the corrected journals, and preparing and print-		
6	ing the acts of this session		1,250.00
7	Compensation of the sergeant at arms, (W. H. C.		
8	Curtis),		24.00

9	Compensation of the sergeant at arms, (J. J. Johnson), including thirty days to close up the work of his office and store the furniture of the House	492.00
12	Compensation of the door-keeper	130.00

Speaker's Appointees

13	(The following amounts are for the first two days of the extraordinary session).	
15	Private secretary to the speaker	24.00
16	Stenographer to the speaker	12.00
17	Page to the speaker	8.00
18	Assistant sergeant-at-arms	16.00
19	Assistant door-keeper	12.00
20	Clerk to the committee on taxation and finance (E. C. Lawson)	20.00
22	Supervisor of journal room	20.00
23	Three journal pages	36.00
24	Mailing and banking page	16.00
25	Four floor pages,	32.00
26	One day watchman	10.00
27	One night watchman	12.00
28	Ladies Maid	8.00
29	Two cloak room attendants	16.00
30	Two toilet room attendants	16.00
31	J. M. Lynn, chief janitor, and five janitors	60.00
32	Chaplain to the house	10.00
33	Supervisor of stenographers	16.00
34	Six floor stenographers	72.00
35	Blanch Dalton, floor stenographer, and clerk to sergeant-at-arms	16.00
37	Gallery doorkeeper	12.00

Clerk's Appointees

38	Chief assistant clerk, supervisor of printing, bill editor, stenographer to clerk, general office clerk, bill record clerk, printing clerks, proof readers, general assistant clerks, and joint supervisor of printing	441.00
43	(The following amounts are for that part of the extraordinary session beginning May twenty-fifth).	

Speakers' Appointees

45	Private secretary to the speaker, including ten days	
46	to close up the work of the speaker's office	276.00
47	Page to the speaker	52.00
48	Assistant sergeant at arms, (including three days	
49	during the recess)	40.00
50	Assistant doorkeeper	72.00
51	Clerk to the committee on taxation and finance, in-	
52	cluding ten days to close up his work, (E. B.	
53	Rocke)	340.00
54	Clerk to the committee on the judiciary, including	
55	twenty days during the recess,	330.00
56	One general committee clerk	104.00
57	Stenographer to the committee on the judiciary	104.00
57	Supervisor of journal room, including ten days to	
58	close up his work	230.00
59	Two journal pages	156.00
60	Mailing and banking page, including ten days to	
61	close up his work	184.00
62	Three floor pages	156.00
63	One day watchman	65.00
64	One night watchman	78.00
65	Ladies maid	52.00
66	Two cloak room attendants	104.00
67	One toilet room attendant	52.00
68	J. M. Lynn, chief janitor and four janitors	325.00
69	Joe Taylor, janitor, including recess	185.00
70	Chaplain to the house	65.00
71	Blanch Dalton, floor stenographer and clerk to	
72	sergeant at arms, (including ten days to close	
73	up the books of the office)	184.00
74	Supervisor of stenographers	104.00
75	Six floor stenographers	468.00

Clerks Appointees

76	Chief assistant clerk, including ten days extension	345.00
77	Supervisor of printing, including ten days exten-	
78	sion	276.00
79	Bill editor, including ten days extension	276.00
80	General office clerk, including ten day extension . . .	276.00
81	Stenographer to clerk, including ten days extension	276.00

82	Four printing clerks, including ten days extension	920.00
83	House's one-half of compensation of supervisor of	
84	printing of the two houses, session and recess	
85	period, and time to complete work of the session	450.00
86	The auditor is directed to pay out of the contingent	
87	fund of the house of delegates for this session any	
88	miscellaneous items of expense for said session re-	
89	maining unpaid, upon the warrant of the sergeant	
90	at arms, when approved by the clerk of the house.	
91	<i>Legislative Committee to Consider Additional Revenue</i>	
92	<i>House Concurrent Resolution No. 2.</i>	
93	To pay the House of Delegates' proportionate share	
94	of the expenses of members, clerical force and	
95	other expenses	3,021.00
96	<i>Miscellaneous Appropriations</i>	
97	Baker Electric Company, electric fans.....	307.50
98	Chesapeake and Potomac Telephone Co., rentals...	55.55
99	W. H. C. Curtis (for amount paid by W. H. C.	
100	Curtis to American Dollar Store for cuspidors)	5.00
101	Kanawha Ice Company, ice.....	4.50
102	J. C. Lewis, balance on hauling, February, March	
103	and April	16.00
104	Callahan's Garage, storage, etc.	40.50
105	Mock Orange Mineral Water Co., water.....	26.40
106	S. Spencer Moore Company, supplies.....	11.65
107	E. B. Rocke, cash advanced for supplies.....	1.00
108	Remington Typewriter Company, rental.....	12.00
109	Royal Typewriter Company, rental.....	18.00
110	Langhan's (florist), flowers for W. H. C. Curtis...	40.00
111	For expense of the following members of the house	
112	of delegates appointed by the speaker to ac-	
113	company the remains of W. H. C. Curtis to	
114	Wheeling:	
115	J. L. Deuley.....	22.72
116	Fred H. Brumage.....	22.68
117	Milton McColloch.....	21.56
118	Henry W. Campbell.....	20.56
119	J. William Moulds.....	20.56

Senate

Sec. 4.	Mileage of the members of the senate....	981.30
2	President of the senate, two dollars per day extra	
3	for presiding	30.00
4	<i>Compensation and Per Diem of Other Elective Officers</i>	
5	Clerk of the senate, for services rendered during	
6	the extraordinary session and the recess period,	
7	and for the time necessary to complete the	
8	work of this session in printing and indexing	
9	the corrected journal, and co-operating with the	
10	clerk of the house in the preparation and printing	
11	of the acts of this session.....	1,250.00
12	Sergeant-at-Arms of the senate, extra session and	
13	recess period, and for time to complete work	
14	of session	500.00
15	Doorkeeper of the senate, extra session and recess	
16	period	320.00
17	<i>President's Appointees</i>	
18	Chaplain of the senate.....	75.00
19	Secretary to the president.....	225.00
20	Stenographer to the president.....	150.00
21	Clerk to the committee on judiciary.....	180.00
22	Stenographer to committee on judiciary.....	180.00
23	Clerk to committee on finance, session and com-	
24	plete work	675.00
25	Stenographer to committee on finance.....	180.00
26	Assistant sergeant-at-arms, session and recess period,	
27	and for time to complete work of session.....	500.00
28	Assistant doorkeeper, session and recess period....	320.00
29	Mailing and banking page, session and recess period	200.00
30	Two journal pages.....	150.00
31	Five floor pages.....	375.00
32	Day watchman, session and recess period.....	200.00
33	Night watchman	75.00
34	Two cloak-room attendants.....	150.00
35	Two toilet-room attendants, session and recess period	400.00
36	Nine floor stenographers.....	1,080.00
37	One stenographer, session and recess period.....	200.00
38	Two assistant janitors, session and recess period....	400.00

39	Four assistant janitors.....	300.00
40	Two elevator operators, session and recess period..	400.00
41	Messenger and telephone attendant, session and re-	
42	cess period	200.00
43	Two assistant janitors for judiciary and finance	
44	committees	90.00
45	<i>Clerk's Appointees</i>	
46	Chief assistant clerk, session and recess period, and	
47	time to complete work of session.....	750.00
48	Official stenographer, session and time to complete	
49	work of session.....	672.00
50	Senate's one-half of compensation of supervisor of	
51	printing of the two houses, session and recess pe-	
52	riod, and time to complete work of session.....	450.00
53	Assistant supervisor of printing, session and recess	480.00
54	Two abstract clerks, session and recess.....	960.00
55	Senate and House bill record clerks, session and re-	
56	cess	960.00
57	Roll clerk, session and recess period.....	480.00
58	Warrant clerk, session and recess period.....	480.00
59	Bill editor, session and recess period.....	480.00
60	Assistant bill editor, session and recess period.....	400.00
61	Superintendent of document room, session and re-	
62	cess period	500.00
63	Assistant in document room, session and recess period	320.00
64	Two stenographers to clerk, session and recess period	800.00
65	Clerk on enrolled bills, session and recess period...	400.00
66	Two journal clerks and two copy holders.....	480.00
67	Three general assistants, session and recess period..	960.00
68	Three general assistants.....	360.00
69	Messenger, session and recess period.....	320.00
70	Contingent fund of Senate.....	2,000.00

Sec. 5. To pay the following named persons and firms for

2	supplies furnished and services rendered State Senate, 1925:	
3	Chesapeake & Potomac Tel. Co., services and tolls....	\$ 264.75
4	H. J. Judy, keys.....	3.05
5	Kanawha Ice Co., ice.....	25.85
6	Laird Office Equipment Co., supplies.....	5.25
7	E. B. Rocke, for special services to Roads and Nav.	
8	Com.	120.00

9	Mock Orange Mineral Water Co., drinking water and cooler	84.90
11	S. Spencer Moore Co., stationery, files and supplies...	256.48
12	Remington Typewriter Co., rentals.....	19.00
13	Smith & Brooks, janitor supplies.....	15.10
14	Underwood Typewriter Co., rentals and exchange...	171.06
15	Walker Dry Goods Co., towels, table covering and floor covering	108.38
17	Wales Adding Machine Co., rental.....	10.00
18	Western Union Tel. Co., services.....	16.49
19	Cal F. Young-Co., stationery and supplies.....	105.62
20	W. T. Zane, flowers (W. H. C. Curtis).....	20.00
21	George C. Meyer, expense attending Curtis funeral..	32.31
22	L. E. Shrader, expense attending Curtis funeral....	21.56
23	Samuel Stephenson, services rendered.....	90.00
24	Callahan's Garage, repairs, storage and gasoline on car used by Supt. joint legislative printing.....	37.50
26	T. R. Brown, electric fans, fixtures and repairs....	122.50
27	<i>Joint Legislative Committee House Concurrent</i>	
28	<i>Resolution No. 2, to Consider Additional Revenue</i>	
29	To pay the expenses of members, clerical force and other expenses, the Senate's proportionate share..	
30		\$3,021.00

Sec. 6. The auditor of this state is hereby authorized and directed to issue his warrants upon the treasury for such amounts as are or may become due to the several members, officers and attaches of the senate and the house of delegates or persons upon the proper requisition of the clerk of the senate and the sergeant-at-arms of the house of delegates, respectively.

FIRST EXTRAORDINARY SESSION

SENATE CONCURRENT RESOLUTION NO. 1

(Adopted May 28, 1925)

“Authorizing the auditor to pay mileage of members and *per diem* of attaches for this extraordinary session in advance of the passage of the appropriation bill.”

Resolved by the Legislature of West Virginia:

That the auditor is hereby authorized and directed to pay the mileage of the members of the legislature and the *per diem* of the attaches thereof, in advance of the passage of the appropriation bill for this extraordinary session, upon proper requisitions drawn by the Clerk of the Senate and the Sergeant-at-Arms of the House of Delegates, respectively.

SENATE JOINT RESOLUTION NO. 3

(Adopted June 4, 1925)

“Declaring it the sense of the legislature that unjust and discriminatory freight rates should not be imposed on the shipment of coal from West Virginia mining districts to ports on the Great Lakes.”

WHEREAS, There is pending before the Interstate Commerce Commission a petition filed by coal shippers of the Pittsburgh and Eastern Ohio mining districts, seeking to increase freight rates on shipments of coal from West Virginia mining districts to ports on the Great Lakes for distribution in the markets of the Northwest; and,

WHEREAS, The existing freight rates on lake cargo shipments from the mining districts of West Virginia are greatly in excess of rates from the Pittsburgh and Ohio districts and are discriminatory against the shippers of West Virginia coal, and a further increase of said freight rates would place additional unreasonable burdens on the coal industry of this state; and,

WHEREAS, Approximately fifteen millions tons of coal are shipped annually from West Virginia to the lake ports and the imposition

of higher freight rates would largely eliminate West Virginia coal from competition in the markets of the Northwest; therefore, be it

Resolved by the Legislature of West Virginia:

That the increase of the differential in freight rates for the transportation of coal to lake ports would mean economic disaster to the coal industry of West Virginia.

That the suspension of West Virginia mines would be attended by the consequent unemployment of labor.

That the coal consumers of the Northwest would be denied the opportunity to purchase the high-grade coals of West Virginia and would be required to buy the inferior products of other districts.

That it is the sense of the legislature that to widen the existing differential would be unfair, unjust, discriminatory and prejudicial against the coal industry of West Virginia.

That the legislature of West Virginia respectfully represents to the Interstate Commerce Commission that the economic life and public welfare of a great state has been placed in jeopardy by this apparent effort to exclude West Virginia coals and eliminate competition in the markets of the Northwest.

SENATE JOINT RESOLUTION NO. 4

(Adopted June 6, 1925)

“Providing for the appointment of a tax commission by the governor.”

WHEREAS, This state has had no fixed program of taxation, which has resulted in unsettled economic conditions tending to discourage the proper development of industry in the state; and,

WHEREAS, It is advisable, in view of such existing conditions, that some definite steps be taken to formulate some permanent and fixed policy with reference to taxation in order that the growing financial needs of the state may not be jeopardized by the varying policies of successive legislatures; and,

WHEREAS, It will require a comprehensive study of the conditions surrounding the varied interests and industries of the state in order properly and equitably to determine a sound and permanent taxation policy for the state; and,

WHEREAS, It is impossible, during any one legislative session, to give adequate and impartial consideration to the formulating of any such tax program; now, therefore, be it

Resolved by the Legislature of West Virginia:

That this legislature recommend to and request the governor that he appoint a tax commission, consisting of seven citizens of West Virginia, not more than four of whom shall be members of any one political party, who shall be representative of, and familiar with, the various industrial, commercial and agricultural conditions throughout the state, for the purpose of studying the taxation problems of the state in relation to these conditions. This commission, when appointed, shall meet at the city of Charleston, at the call of the governor, from time to time. It shall furnish report or reports to the regular session of the legislature of 1927, with its recommendations in the form of a proposed bill or bills, or constitutional amendment or amendments, designed to establish an economically sound and permanent taxation system for the raising of state revenue.

For the purpose of defraying the expenses of this commission in attendance upon its duties, the governor is hereby authorized to draw necessary warrants for this purpose upon the civil contingent fund appropriated during the regular session of the legislature for the year 1925. *Provided, however,* that no payment shall be made to any member of the commission on account of salaries or personal service.

HOUSE CONCURRENT RESOLUTION NO. 1

(Adopted April 29, 1925)

“Raising a joint committee to wait upon the governor.”

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of three on the part of the House, to be appointed by the Speaker, and two on the part of the Senate, to be appointed by the President, be appointed to wait upon the Governor and notify him that the legislature is now in extraordinary session pursuant to his proclamation dated April 27, 1925, with a quorum of each house present, and awaits any communication he may desire to make.

HOUSE CONCURRENT RESOLUTION NO. 2

(Adopted April 30, 1925)

“Raising a select committee to consider and propose revenue measures and providing for a recess of the legislature.”

WHEREAS, The Honorable Howard M. Gore, Governor of West Virginia, has convened the legislature in extraordinary session for the consideration of matters set forth in his proclamation of the date of Monday, April 27, 1925, and

WHEREAS, Said recommendations of the Governor propose and require greatly increased revenues and taxes, therefore

Be it Resolved by the House of Delegates, the Senate concurring:

That the Speaker of the House of Delegates, and President of the Senate are hereby authorized to appoint a select committee, to be composed of seven members of the House, to be appointed by the Speaker of the House, and five members of the Senate, to be appointed by the President of the Senate, the President of the Senate and Speaker of the House to be *ex-officio* members of said committee, for the purpose of conferring with the Governor and ascertaining his views, suggestions and recommendations as to the method of raising such additional revenue; and that the committee carefully consider the proposals as to revenue and appropriations set forth in said proclamation of the Governor, and prepare and report to the legislature its recommendations thereon; that said committee shall have power to require from the proper state officials, including all executive departments, all executive and administrative officials, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and all institutions applying for, state moneys and appropriations, and other persons, such itemized estimates and other information as said committee shall direct. Said committee shall have power to send for persons and administer oaths, and employ such clerks, stenographers and other employees as said committee may deem necessary, and fix their compensation; that the members of said select committee each be paid the fixed sum of ten dollars per day as expenses while so engaged in the discharge of their duties as such select committee, the expenses of said committee to be paid out of the contingent fund of the House and Senate upon certificates thereof by the chairman of said committee.

Resolved further, that the members of the legislature shall be paid mileage for their attendance at the recessed meeting of this session, to be paid in the manner provided by law.

Resolved further, that upon the adoption of this resolution, the members may return to their homes, to re-assemble at the end of the recess herein provided for, and the legislature shall stand recessed until Monday, May 25, 1925, at two o'clock p. m.

HOUSE CONCURRENT RESOLUTION NO. 3

(Adopted June 6, 1925)

“Raising a joint committee to wait upon the governor.”

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker, and two on the part of the Senate, to be appointed by the President, be appointed for the purpose of notifying the Governor that the legislature has completed the work of this extraordinary session and is ready to adjourn, *sine die*, and ask him if he has any further communication to make.



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ACTS AMENDED:

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